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APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
a Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

Volume II—Pages 357 to 719
Testimony

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petition for Writ of Certiorari
Filed August 26, 1975
Certiorari Granted October 20, 1975

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In the
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THE SERBIAN EASTERN ORTHODOX DIOCESE FOR THE UNITED STATES OF AMERICA AND CANADA,
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On Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

[3415] Q. Now, who, if anybody, is the spiritual and even administrative titular head of a diocese in the Serbian Church—I mean in the orthodox church?

A. The bishop.

Q. The bishop. And that bishop for that diocese is elected by whom?

[3416] A. The—according to the canons, the election is made by the bishops of the province; that means of the autocephalous church to which he belongs, although the procedures here may vary from local church to local church. For example, there are some churches which admit nomination by—in the assembly, of the assembly of the diocesan nomination only; but then the canonical election is still made by bishops.

Q. Is there any such thing as nomination by lay assembly in the Serbian Orthodox Church?

A. Well, as far as I can see from the statutes of the Serbian Patriarchate and the Serbian Diocese, there is none.

Q. Are there in turn, at least administrative, if not spiritual, subdivisions of a diocese?

A. Well, that depends on the statutes of a particular diocese. You have deaneries, you could organize internally. The bishop can organize a diocese the way he wishes unless he's bound by some general by-laws which are valid for all the dioceses of a particular church.

Q. You have spoken frequently in the course of this trial of congregations. Are those spiritual and administrative subdivisions of a diocese ?

[3417] A. Well, you see, a congregation can be called an orthodox congregation only if it's—finds itself on the spiritual responsibility of a bishop.

Q. Now, in recounting for us, in naming the fourteen orthodox autocephalous churches presently existing in the world church; that is, in the orthdox church, those names all appear to have—to me at least—to have some country definity: Serbian; Russian; Greece; Constantinople—

A. Right.

Q. May these autocephalous churches have jurisdiction, spiritually and otherwise, of areas or in areas beyond the territories of the countries?

A. Well, they cannot have jurisdiction over—in territories which belong to other churches. They cannot.

Q. Would you please explain that and take your own church.

A. If a Russian priest travels to Greece, he cannot celebrate the sacraments or act as a priest without permission of the local bishop which is the orthodox bishop of the particular territory which he finds himself. And of course, let's say, unless the Russian Church establishes a diocese in Greece, this is then
[3418] absolutely out of the question. Where, except, you see, if for sake of temporary expediency the church of Greece gives its permission and sort of thinks that this is proper. You know, you had cases of that, all sorts of refugees going through and you had temporary administration of some kind and this is what happens, you see. This is a case, for example: The Serbian Church granted such a permission to a synod of Russian bishops who were residing in Yugoslavia until the Second World War. Well, they had their synod administering Russians in Serbia and elsewhere by a particular permission of the Serbian Church, but the Serbian Church was perfectly resigned to this permission and lost the canonical

character. Now, this applies to areas which have established orthodox dioceses. Now, there are areas on this planet where there are none, you see. Now, in this area, no man's land, where there's missionaries, the present practice of the orthodox church is that any church can send an established jurisdiction there. However, and I think this applies to America and perhaps—I don't know whether you wanted it on that in order to have a kind of history of what happened in America—however, once a diocese and church, a church establishes a kind of missionary activity or pastoral endeavors, a diocese in a par-
[3419] ticular church and this diocese is recognized as—by all and this is usually done canonically, becomes the local church.

Now, as far as the America is concerned, this—such a diocese has been established in 1840, in 1840 by the Church of Russia, you see, and therefore, up to precisely the 19—early 1920's, all the orthodox in this country were subject to this diocese. Now, after 1921, the national—various national churches were established including the Serbian, but this has been done by permission and of the Russian Bishop.

Incidentally, maybe I'm mistaken here. I'd like to say that the official name of the church was not Russian Church, it was the Orthodox Greek—The Greek Orthodox Church of America, I think it was called, although the head happened to be appointed from Russia, but it was not the Russian Church canonically while the head was Russian.

Q. Who or what body is the supreme body of an orthodox church; meaning an autocephalous, one of the fourteen, for example, autocephalous churches in orthodoxy?

A. Of course the Council of Bishops of that particular church.

ABSTRACTED TESTIMONY RESUMED

3420 Actually to be accurate, the Assembly consists of all the Bishops of the Church having dioceses. The Patriarch is the first among equals. He is the chairman ex officio of the Council of Bishops and represents the Church whenever this Church is to be represented; but again the specification of his powers may vary. In some churches he is not more than just a chairman, and in other churches he has some executive powers, but these are always granted by the legislation.

3421 I have had occasion to look through the Constitution of the Serbian Orthodox Church and the Constitution of the Canadian/American Diocese. The American-Canadian Diocese differs somewhat from the other dioceses of the Serbian Church. There is a special statute which was granted to it by the Serbian Church. It is still, as far as I can remember correctly the text, remained hierarchically and sacramentally a part of the Serbian Church. The Serbian Orthodox Church is a hierarchical church because
3422 they believe that the office of Bishop is divinely established and not something which comes from man. I have at your request studied and read the orders and decisions of the Holy Assembly of Bishops of the Serbian Orthodox Church in 1963, respective creation and organization of the Canadian/American Diocese and the creation of three other dioceses. I also have studied the suspension, deposition and defrockment of Bishop Dionisije.

3423 Within the canons applicable to the Serbian Orthodox Church, the Constitution of the Serbian Orthodox Church, the Constitution of the American/Canadian Diocese, I have an opinion as to whether or

not Bishop Dionisije was properly suspended, de-
3430 posed and defrocked. It is my opinion that he was. I am aware of the fact that the Holy Assembly of Bishops in acting with respect to Bishop Dionisije's defrockment, included among its members the Bishop assigned to prepare the Indictment and he sat and voted in the Assembly. In my opinion this makes no difference because I do not know of any Church rule which prevents him from acting in such a way, and in virtue of his episcopal dignity he had even the duty to vote on an issue of that importance, and in this particular case Church procedures are different from the sort of accepted legal procedures in
3431 our court.

3433 The Council of Bishops in the Orthodox Church and its autocephalous churches, has the authority to fix the boundaries of dioceses. These boundaries have been changed historically and everything which is done in the Church is in the authority of the consuliatory synodial voice of the Bishops.

3434 As a rule the Holy Assembly of Bishops or Council of the Autocephalous Orthodox Church appoints its Bishop. However, in several individual autocephalous churches there are procedures for the election of Bishops.

However, in every Orthodox Church the actual, canonical right of electing and appointing a Bishop belongs to the Bishops Assembly, although again the preliminary procedures of nomination, pre-election and so on, may in individual cases, be given to a Diocesan Assembly. In the case of the Serbian Church I do not think this was the case.

3435 I base this opinion on the reading of the statutes and the Constitution of the Serbian Orthodox Church. The canons of the Church form a code which do not

pretend to be absolutely consistent with each other. There is a great body of text which is made up largely of precedence indicating legal procedures that require interpretation, and obviously each Church has the duty to interpret these canons so that it may remain faithful to their spirit, to the doctrinal teachings of the Church, and to decency and every good principle in human relations which we can think of. It is of course the responsibility of each Bishop
3436 through the Assembly of Bishops to interpret these canons in such a way as their spirit may be preserved. In an autocephalous Orthodox Church, the final authority on the interpretation and explanation of the canons would be the Assembly of Bishops. This would include the interpretation of canons insofar as establishing procedures with respect to the appointment, the assignment, the suspension, the deposition, and the defrockment of Bishops. In the Orthodox Church, we do not believe in the infallibility of any particular Bishop, or even of any Council of Bishops, so by saying that this is the highest authority I do not want to affirm that a particular Assembly of Bishops is necessarily infallible. Their writings and their actions are always subject to the judgment of the whole Church and I would say the highest authority would be the Ecumenical Council but without an Ecumenical Council, of course, the highest moral authority which you can find is the consensus
3437 of the Orthodox Churches on a given case. The fact that the Assembly of Bishops acts to fulfill a right and responsibility, does not denote the legal infallibility. When I use the term legal, I am referring to the procedures necessary for the appointment of a Bishop or his deposition which would include indictments and ultimate defrockment.

3438 Within the Orthodox Church there is a right of appeal from a decision of a Council of Bishops of an Autocephalous Orthodox Church. Canon 9 and 17 of the 40th Ecumenical Council which is the Council of Chalcedon provided that if a Bishop or a Cleric is dissatisfied with the decisions of his immediate superior he may appeal against this decision for a judgment of the Exarch of the Diocese or of the Bishop of Constantinople. So he has two possibilities here. Now the Exarch of the Diocese in Byzantine legal terms, Orthodox legal terms, indicates the Patriarch of the area in which the case is being judged.

3439 Parallel to this route of appeal is the possibility of appealing to the Court of the Bishop of Constantinople who may, if he wishes, hear the case again. That status of the Bishop or Patriarch of Constantinople still exists today as a legal fact and is not purely honorary because this canon has never been rescinded. There were cases of appeal to the Patriarch of Constantinople in the recent history.

3444 With respect to the Serbian Orthodox Church, principally in the United States and Canada, the Exarch would be the Patriarch of Serbia, under whose jurisdiction this diocese was and is.

3454 PX 62 through 67 are series of documents and letters which tend to indicate an appeal by a Bishop
3455 who has been tried and suspended by his own Patriarch, in this case Patriarch German in Serbia, and the Bishop, Bishop Dionisije, in appealing against that judgment to the Patriarch in Moscow. Also there seem to be appeals to the Patriarch in Constantinople.

3467 (Offer of proof.) PX 62, 63, 64, 65, and 66 relate to and have the greatest bearing on the validity of the original decision of the Bishops. I am not an

expert in American legal procedure and secular legal procedures at all, but I am simply a theologian and I know the canons of the Orthodox Church and in view of what I think I made clear in my previous statements this morning, I consider that for the recognition of any validity to an act by any Orthodox Bishop or any group of Bishops, the consensus of other churches is essential; therefore, in my opin-
3468 ion the expression of the view of the opinions of the Orthodox Church, other Orthodox Churches who have the greatest importance for my personal conviction in my attitude toward the case as an Orthodox Theologian. The very fact that this defrockment has been recognized universally by all Orthodox Churches raises in my mind a very practically, decisive argument, and in my opinion supports the validity of the original action by the Serbian Assembly of Bishops.
(End of the offer of proof.)

3471 I have an opinion as to whether reorganizing a diocese has historically in the Orthodox Church resulted in the creation of two or more dioceses from the single diocese. This has happened both in ancient and modern history.

VERBATIM TESTIMONY

[3469] By Mr. Jenner:

Q. Does anybody—I don't mean any person—any body, cleric or otherwise, in orthodoxy have any jurisdiction and in particular in the Serbian Orthodox Church to reorganize a diocese other than the Holy Assembly of Bishops?

Mr. Holmquist: Would you read that question.

(The question was read by the reporter.)

[3470] Mr. Holmquist: Well, I think he's asking the witness two questions and the witness I think has already answered the question. In any event, he was previously asked this very same question.

Mr. Jenner: Your Honor pleases, I asked the witness here before who had that authority and he said the Holy Assembly of Bishops had it and I am now asking if any other body or person has that authority.

The Court: The objection is overruled.

Mr. Holmquist: Are you confining this to the Serbian Church?

Mr. Jenner: Yes.

The Witness: No. No.

By Mr. Jenner:

Q. There is no other?

A. No.

Q. Does that include any body or group of laymen that has no authority or jurisdiction?

A. It has—it may, but anyway, any initiative for the reorganizing of the diocese must receive the sanction of the Council of Bishops anyway. Therefore, it is the Council of Bishops which is the legal source of authority for the reorganizing of the diocese.

Q. Professor, do you have an opinion as to wheth-
[3471] er reorganizing of a diocese or dioceses may extend and has in the history of the orthodoxy extended to the creation of two or more dioceses from a single diocese?

A. Well—

Q. Do you have an opinion?

A. Yes. Of course—

Q. What is that opinion?

A. That this can happen and certainly happens in history.

Q. You say happened in history, you mean on occasions through the Byzantine history which you have been a student?

A. Or recent history.

Q. Ancient as well?

A. Ancient and modern.

ABSTRACTED TESTIMONY RESUMED

It is my opinion that the Holy Assembly of Bishops
3477 followed the canonical procedures as best it could and reached a conclusion which to me seems in conformity with practices and tradition and canonical rules of the Orthodox Church. It is my opinion that
3478 there exists today in the United States and Canada three dioceses from the canonical and ecclesiastical point of view. My opinion is based simply on the decision of the Assembly of Bishops of the Serbian Orthodox Church, which I have read and which I consider to be the appropriate authority to establish these three dioceses. These are PX 1 through 4, which
3480 I have examined. I have examined Article III of PX 30, this being the Constitution of the Serbian Orthodox Diocese in the United States of North America and Canada, adopted in 1939 and after having read this document I can state that it has not lead me to change my last expressed opinion. The autonomy de-
3481 scribed in this article pertains to the life of the diocese itself and it concerns the external administration of the diocese. It does not apply to the very existence of the diocese or the hierarchical jurisdiction of the Assembly of Bishops over it. I have based my opinion upon the reading of the Constitution of the Serbian Orthodox Church in general and it appears to

3482 me that Article III does not restrict the power of the Holy Assembly of Bishops to create new dioceses from an existing diocese.

3483 *Cross Examination.*

I was ordained in Paris in 1959 in an Exarchate of the Russian Orthodox Church. This is not a jurisdiction of the Russian Orthodox Church but is a diocese that was under the Patriarchate of Constantinople. The diocese did not remove itself from that jurisdiction but the Patriarch terminated it. It is currently void canonically and I don't know who
3484 makes claim to it. This exarch was established by bishops, clergymen and faithful who fled Russia during religious persecution around 1918. At that time
3485 they refuted their ties to the Patriarch of Moscow. They were immediately accepted by the ecumenical patriarchate and the Moscow Patriarchate's attitude officially was that they did so irregularly. Schism is a division of the church on the basis of disciplinary and other issues while heresy is the division on the issue of faith although very often between the two there is not as sharp a distinction as one would expect. It is fair to say that schism generally relates to administrative or procedural matters and heresy
3486 matters of faith and dogma. A schismatic, or one who is so accused, may nonetheless still hold orthodox beliefs. It is probably the case that those who came to Paris and labeled as irregular by the Holy Assembly in Moscow were considered by the Holy Assembly to be schismatics. It must be remembered, however, that the orthodox church in Russia and Serbia and this country and everywhere has been full of conflicts and tragedies and misunderstandings

of various kinds. I think it is important to see that the Patriarchate of Moscow never proceeded with
3487 any trials, defrockments or anything of that sort against the people in Paris or America. It is fair to state that throughout the orthodox world it has not been unusual to find factions in any of these churches accusing one another of schism and heresy. This is especially so in the last half a century. Traditionally the great provincial orthodox churches have grown up and followed the bundaries more or less of the kingdoms or countries in which they were situated. From time to time these countries have disappeared and sometimes the churches were ab-
3488 sorbed. From time to time also, many of these churches have been subject to the influence and efforts of the rulers of these countries and this is particularly true in the case of Moscow. In my book *The Orthodox Church,* I made a study of the orthodox church under Communism and made the point that very often it has been necessary for the church to accommodate to the gevernment to continue in
3489 existence. I am currently subject to the diocese in America. I am a member of the Russian Orthodox Greek Catholic Church of America. It is a successor to the Serbian Metropolia of America which was a
3490 continuation of the Russian Diocese founded in 1814. A Patriarch is the head of an autocephalous church while a Metropolitan is a title which can be used in a variety of ways in the orthodox church. It designates a provincial, a primate, but not necessarily autocephalous unless officially designated as such.
3491 The Metropolitinate of Montenegro is an example of an autocephalous church headed by a Metropolitan as contrasted with a Patriarch. Following the arrival of Metropolitan Planton in the United States

after 1923, relations with the Mother Church in Moscow were severed or broken. The Patriarch of Moscow sent a Bishop Benjamin to talk with Metropolitan Planton to more or less try and straighten this thing out. Benjamin was appointed as an Exarch which is a representative of the Moscow Patriarchate in America with jurisdictonal rights. (Offer of
3493 Proof.) Archbishop Benjamin requested Metropolitan Planton to sign a pledge that he would abstain from participating in political life in general and
3495 in particular in relation to the Soviet Union. The Metropolitan objected to and refused to sign the pledge. Thereafter, a Sabor or church national assembly of the Russian Orthodox Church in the United States met and declared itself autonomous from the Russian Church pending the establishment of normal
3506 church life in Russia. The resolution was that the Metropolitanate would enjoy temporary self govern-
ment until relations could be normalized with the
3507 Mother Church. I do not think that this case is parallel to the Serbian case as Moscow did not proceed with any trial, investigation or defrockment.
3508 The Russian Metropolitanate did not retain its hierarchial canonical connections with the Moscow Patriarchate. It also disturbed its administrative relations with Moscow. The members of the diocese and the faithful remained members of the Russian Orthodox Church. It is my opinion that the pledge was sufficient canonical reason for the Metropolitanate to take this stand which would be an unavoidable step
3509 for a loyal American citizen. The only thing which is sustained by canon law and orthodox doctrine is that no particular individual is infallible. Each individual's action or decisions or authority is to be judged by the consensus of the whole church. It is

my belief that Metropolitan Planton and the Sabor were justified in interrupting their ties with Moscow. It was a morally unavoidable decision. To my knowl-
3510 edge, the Russian Diocese in the United States did not lose recognition among other orthodox churches at this time. After the interruption the diocese did not place itself under another Patriarchate and enjoyed temporary self government. Metropolitan Planton was indeed suspended, but notification of his suspension was not addressed to him and the absolutely legal obligation of the Patriarchate to start a trial was never carried out which leads me to believe that the Moscow Patriarchate did not want to push this
3511 affair at all. It is difficult to say whether the initial suspension was done in a canonical manner as in 1930
3512 90% of the orthodox bishops in Russia were in exile or concentration camps. The council of the Russian Church in 1917 established a procedure for lay participation in the election of bishops and this was applied in its American branch. The level of participation by the laity was at the level of nomination only and this was in accordance with the statutes and the constitution of the Russian Orthodox Church. (End of the Offer of Proof.)

3517 MILAN GRUNCHICH testified as follows:

Direct Examination.

My name is Milan Grunchich and I am a priest at St. Stevans of Decani Serbian Orthodox Church in Chicago. I was born in Hungary on April 6, 1911, and was ordained as a priest on August 28, 1935, in the Serbian Orthodox Church. I attended the ele-
3518 mentary middle theological seminary and afterwards the University of Belgrade Theological Faculty. I

3522 arrived in the United States on February 14, 1949. I then went to Libertyville and subjected to myself to the jurisdiction of Bishop Dionisije of the Ameri-
3523 can-Canadian diocese. I served as a priest in various parishes until 1955 when I became a citizen. Then, I requested a leave of absence from Bishop Dionisije and went into private business. In 1963, when the division of the church occurred, the people that organized the church as St. Stevan of Decani in Chicago came into my home and asked me if I would
3524 take the parish. I am currently assigned there and perform the duties of the parish priest. I have ex-
3526 amined Plaintiff's Exhibit 68 article no. 15 of that
3527 exhibit and can state that the Serbian Orthodox Diocese of Budim is the same one in which I served as a clerk and as a parish priest in my early years in the Serbian Orthodox Church. At the time of its
3528 founding, the diocese of Budim was subject to the Metropolitan of Sremski Karlozci. Prior to the first
3530 World War, since the Serbian nation was divided, the church was divided into seven independent churches. These were the Metropolitans, The Church
3531 of Dalmatia, the Church of Bosnia, and finally, the diocese of America under Bishops jurisdiction. The Metropolitanite of Karlosci was an autocephlis as were Belgrade and Montenagro. Bosnia Hersigonia was under the jurisdiction of the Patriarch of Con-
3532 stantinople. Dalmatia was under Buckovenia.

3534 The kingdom of the Serbs, Croats and Slovans were established after the first World War in 1918. The Serbian Eastern Orthodox Church and Holy Assembly of Bishops evolved into what we know it as today over a period of two years ending in either 1920 or 1922. Most of the six religious divisions,

which I previously mentioned, combined together to form the Serbian Orthodox Church; a part of them stayed in the State of Hungary. This is the diocese of Budim parts of Bacha and parts of Temesvar.
3535 After the Organization of the Serbian Orthodox Church the relationship between the diocese of Budim and the Holy Assembly of Bishops in the Serbian Orthodox Church in Belgrade was exclusively
3537 higherarchical and canonical. Significant differences exist between the relationship of the diocese of Budim and the diocese within the Serbian Orthodox Church in their relationships with the Church. We in Budim had nothing to do with our Church constitution. Our diocese and our church in Hungary were conducted and regulated by a document which was drawn at a Sabor at Karlovci and approved and signed by the Emporer of France Joseph of Austria-Hungary. The Sabor which drew this document in 1864 anad 1865 consisted of laymen and church men.
3542 The document which this Sabor produced governed all aspects of the actual life of our church in Hungary and the relationship between the church and the State of Hungary.

3544 *Cross Examination.*

The last Bishop of Budim was Dr. Georgije Zubkovich who served from 1911 until 1952. He was elected as Bishop of Budim by the Metropolitan of
3545 Karlovci. There is a diocese of Budim in the Serbian Orthodox Church and it has as its administrator his holyness Patriarch German in Belgrade. I did not
3546 see the release from the Bishop of Budim when I left there after World War II, but after I was accepted by Bishop Dionisije, Dr. Zuzkovich, the Bishop of Budim, gave me my release. The American

3547 Diocese of the Serbian Orthodox Church was cre-
3548 ated, I believe, in 1917 under Russian Jurisdiction. It was not created by the Russians or by the Serbs but they were under Russian jurisdiction. I consider myself a priest of the Serbian Orthodox Church. The highest archical body in that church is the Holy Assembly of Bishops with its see in Belgrade.

FIRMILIAN OCOKOLJICH:

3550 *Cross Examination.*

In 1949 I was assigned by Bishop Dionisije to a parish in Pittsburgh and at that time there was some trouble in that parish. The parish did not belong to any ecclesiastical authority. They called themselves orthodox, the Serbian Orthodox Independent Church
3551 of St. George. It had been in existence, I believe, since 1905. At this time they did not recognize any hierarchical superior. They had both Russian and Serbian Priests at one time. When I went there the congregation voted as to whether they wanted a Serbian Orthodox Priest or whether they wanted to keep the Russian Priest and by a great majority they elected me to be parish priest. Then under a court
3552 order the parish voted to determine whether or not they wanted to belong to the Serbian Eastern Orthodox Diocese of America and Canada and they voted to join that Diocese. They did not obtain the consent of any Russian Orthodox Clergyman to join the Serbian Eastern Orthodox Diocese. Such a Church would not have the right to withdraw from the Serbian Diocese even upon the vote of its congregation.
3553 A Father Savich, a Serbian Priest, was in that parish before I got there. To my knowledge Father Savich,
3554 when he was priest at this independent church, did

not recognize the ecclesiastical authority of the Serbian Orthodox Diocese despite the fact that he was a Serbian Orthodox Priest and that was the reason for his defrockment. I served as administrator at Shadeland from 1950 and spent about 2 years overseeing the property and the people that lived there. I was
3555 not the first administrator at Shadeland as for sometime Bishop Dionisije took care of the property and then a clergyman, Father Miodrag Djurich was there as administrator. Then the Reverend Nakanor Paljich held the job immediately prior to my assignment there. During the time I administered Shadeland, I had no reason to make any complaint, charge or accusation to the Holy Assembly of Bishops or the Synod regarding the conduct of Bishop Dionisije towards Shadeland. At no time did I make any complaint, written or oral, charge or accusation concerning the conduct of Bishop Dionisije to the Holy
3556 Assembly of Bishops or its members prior to May
3557 10, of 1963. I spoke with the investigating commission that arrived in 1963 and answered all the questions that they asked. They asked me if Bishop Dionisije had asked for money for the servicing of the church in Pittsburgh and I replied that he had and then they asked the financial secretary of the church congregation to show the check he received.
3558 This was the traveling expense for Bishop Dionisije. It was not unusual for a church when it requests a Bishop or a Clergyman to travel to attend the church for services or function to pay his traveling expenses. The commission also asked me about traveling expenses in connection with a church in Elizabeth, New Jersey. I do not recall any other questions. I was Secretary of the Diocese in the

beginning and then when I went to Detroit in 1940
3559 another man was appointed. When I came from England in 1945, I was again appointed Secretary and I remained as Secretary until 1956. At one time I handled the receipt and placement of displaced persons who arrived in New York, but I currently do not perform this duty. No member of my diocese performs such a function. To the best of my knowledge no member of the Serbian Church in America does this, but I know that the clergymen take care of the people who come from the old country. If someone comes to Detroit, the Priest will help him find a job and a place to live. Part of my job was providing affidavits that immigrants would have employ-
3560 ment when they arrived in this country. To my
3561 knowledge no one is designated to execute the affidavits and assist displaced persons in the Serbian Orthodox Church of America.

Redirect Examination.

Arranging for numerous people to come to this country was a voluntary effort on my part; I was not appointed or designated by anyone to do this.
3562 When I originally came to this country it was at Bishop Dionisije's request. Prior to coming I obtained a canonical release from the Bishop whose jurisdiction I was then serving. This is the general practice in the Serbian Orthodox Church. I used personal funds in 1956 and 1957 as to Diocesan affairs because there was no money in the Diocesan or Monastery treasury. When the auditing board came to examine the financial business of the Monastery and the Diocese I explained to them I was using money of my own and that there was more than $11,000.00 in unpaid bills. The auditing board thanked

me in writing for doing this. Further investigation was part of the regular check on the books of the diocese and monastery. There is a copy of the original report on file with the diocese signed by the auditing board. PX 157 is in Serbian and entitled "Report of the work of the auditing board of the American-Canadian Diocese" dated September 6, 1956 and is signed by the Very Reverend Jovan Marcetich who was president of the auditing board and also by the members of the auditing board, Nikola Chabraja and Milan Madrinich.

ROBERT VUYOVICH, testified as follows:

Direct Examination.

My name is Robert Vuyovich; I live in Chicago, Illinois and am employed as a trucker. I have resided in Chicago all my life and am a member of the Serbian Orthodox faith. I am a member of the Serbian Eastern Orthodox Diocese of the United States and Canada, an Illinois Religious Corporation, and have been a member all my life. I am a member of the Diocesan Council and was first elected in 1960. I was freely elected at a Sabor by the lay members and clergy. I have served on the Council from 1960 until the present.

Participants in the Sabor are freely elected by each church throughout the country. Every clergyman is automatically a member of the Sabor. The members of the Diocesan Council are elected by delegates of the people. The Diocesan Council has met approximately every three months since I was elected.

I was born on December 5, 1921. During World War II, I served in the United States Navy. Just prior to getting married, I joined the church as a

paying member. To my knowledge there is no other Serbian Diocese in the United States or Canada other than the Serbian Eastern Orthodox Diocese for the United States and Canada, an Illinois Religious Corporation. The Bishop of this Diocese from 1940 until May of 1963 was Bishop Dionisije. To my knowledge, he was not Bishop of any other religious body during that period. The Diocesan Council of which I am a member did not act in behalf of any other religious body.

The Diocesan Executive Council acted as trustee for that corporation based on the customs and usage of the diocese. In addition to being a member of the Diocesan Council, I am president of my Serbian Church in Chicago which is the Old Holy Resurrection Serbian Orthodox Church. I am a member of the Board of the St. Sava Monastery Corporation and have held that position since 1962 or 1963. I am currently one of the directors.

Old Holy Resurrection Church was organized in September of 1964. This was a result of the problem which arose in our parish in May of 1963. We formed the Old Holy Resurrection Church and were in disagreement with the people who remained in the Holy Resurrection Church. Prior to May of 1963, there were two Serbian Orthodox Churches in Chicago. One was the Holy Resurrection at 1905 W. Schiller and the other was St. Michael's at 98th and Commercial.

Now there are four churches which includes St. Simeon, 3500 East 114th Street. St. Michaels and Holy Resurrection are under the jurisdiction of Bishop Firmilian. The four other churches are under Bishop Dionisije and Irinej. Prior to 1963 church

membership was counted by the head of the family. In other words, a man and his wife and his children would be counted as one member regardless of the size of the family.

The membership of Holy Resurrection Church was about 500 members. Prior to 1963, I was Vice-President of the Holy Resurrection Church. There are four churches currently which recognize Bishop Dionisije.

St. Stevens of Decani has a membersihp of about 250 and St. Nicholas of about 125. St. Simeon has about 600 members and Old Holy Resurrection Church has about 500 members. The building we are now in was once an English Evangelical Church and we now use it as a complete church structure. From my own personal knowledge, I can state that the other three churches, Stevens, Nicholas and Simeon, are organized churches using church buildings in every sense.

The meeting that occurred in Libertyville on June 6, 1963, was a Plenum meeting. A Plenum is the second highest authority on our diocese. The highest authority is the Sabor and then we annually call a Plenum meeting because of the expansion of the diocese and the administrative work load. The Sabor meets every three years as provided for in the constitution of the corporation. The Plenum meetings are held annually.

The June 6, 1963, Plenum meeting was emotion packed as Archimandrite Firmilian came into the meeting at a certain point and demanded that we turn everything over to him based on the letter he had from the Patriarch in Belgrade. Bishop Dionisije was there at the time. I would estimate there were

forty to fifty people at this meeting. I was there at the time the meeting was called to order, but Bishop Firmilian was not present. Bishop Dionisije was conducting meeting and when it came to his attention that Archimandrite Firmilian was in the kitchen, he asked one of the members to go to the kitchen and invite Firmilian to join us. At that time Archimandrite Firmilian entered the meeting and proceeded to the head table where he presented Bishop Dionisije with an envelope. Bishop Dionisije refused to accept the envelope. After this rejection Archimandrite Firmilian walked out and a few of his followers accompanied him.

Vladimir Mrvichin who testified earlier in this case is my brother-in-law. I had a conversation with him in regard to the burial of his mother. He called me from Los Angeles where he was living and asked me what the restrictions were, as he would like to bury his mother in Libertyville. I talked to the Bishop and burial was approved with the only restriction that Father Mrvichin could hold the grave side services, but any other services would have to be conducted by one of our priests. Father Mrvichin's mother was brought to the cemetery at Libertyville and I attended this ceremony. The funeral went off in an orderly manner and we had priests available on requests. At no time did any investigating committee from the Holy Council of Bishops ever approach or question me concerning the conduct of Bishop Dionisije. To my knowledge no one in my parish was ever approached.

Cross Examination.

Priests we had available at the cemetery are those who recognize Libertyville and the diocese of the United States of America and Canada.

3597 The meeting that took place in 1963 took place on property owned by the Monastery Corporation, a non-profit corporation. Due to our expansion, we had to hold Plenum meetings annually and started this procedure in 1960 or 1961. There was no provision
3598 to my knowledge in the constitution for Plenums, but, because of the tremendous amount of book work, these meetings became necessary. St. Stevens was organized in Chicago prior to May of 1963, but at that time had no property as it was just a group of people who were trying to organize.

3599 I was involved in the Court litigation over Holy Resurrection Cathedral in Chicago. We had to get an injunction from the Court so that we could hold an election. After the election was held, our side lost by 20 votes.

Exhibit 92, admitted in evidence as a charter of the Serbian Eastern Orthodox Diocese for the United States and Canada, a religious corporation, is the corporation I referred to when I said that I had been
3600 a member all my life. I was born in 1921 and the corporation was incorporated in 1935. Prior to that, as a member of my father's family, I was part of the Holy Resurrection Serbian Orthodox Church on Schiller Street, which is a church corporation.

3601 Prior to 1935 my father belonged to the Libertyville diocese of the United States and Canada which was a religious body. I would say that PX 30 appears to be the constitutional by-laws of the religious cor-

poration. The second page of this document indicates the constitution went into effect in 1927 with later revisions.

3604 I have never heard of the Serbian Eastern Orthodox Diocese of the United States and Canada, a New York religious corporation or of Bishop Dionisije as the president. I do not know who is president of the Illinois Religious corporation of which we have been
3605 speaking. I consider myself a member of the Serbian Orthodox Church, and as far as I am concerned the highest Ecclesiastical authority in that church is Bishop Dionisije.

3644 FATHER ALEXANDER IVANOVICH, testified as follows:

Direct Examination.

I am Alexander Ivanovich. I live at Libertyville, Illinois, St. Sava's Monastery. I was born in Yugo-
3645 slavia, 7 July, 1935 in the town of Valjska-Kamenca, presently under the Communists. I attended elemen-
3646 tary schools and gymnasium there. Then I went to a Serbian orthodox school for clergy seminary in Prjren. I entered the seminary in 1949 and I was out in 1954, a four year course. I then went to the
3647 theological university at Belgrade. After one year at Belgrade, I was drafted into the Army. While at Belgrade I studied theological subjects. Then I spent two years in the Army; 1955 to 1957. There was no provision for exempting theological students from military service in Yugoslavia.

3649 While in the military service I did not obtain a rank or grade, for we could not obtain any rank because we were theological students and are not classified at all. After completing my military service I
3650 went to my Bishop in the Diocese of Timok in the

eastern part of Serbia and was ordained. This was in 1957 and I was ordained by Bishop Emelian as a deacon, the first level of clergy in the Serbian church.

3651 Since my original ordination, I have been promoted to the rank of Proto Deacon in Zajcar in 1962 by Bishop Emelian. This is my present rank. After
3652 my 1957 ordination I was assigned to Zajcar in the Diocese of Timok and I was appointed to be Deacon of the Cathedral Church in Zajcar and Bishop Emelian's secretary. Additionally, I was Secretary and Prosecutor of the Ecclesiastical Church Court. I continued in that position until 1963 when I left the Country.

3653 I was appointed the prosecutor in 1960 and remained in that position until I left the country in 1963. The Ecclesiastical Court of the Diocese of Timok has the jurisdiction of the Serbian Orthodox Church in that diocese. As Secretary of the Ecclesiastical Court, I was also a member of the Court. When I was first appointed as Secretary to the Bishop my duties as a Deacon consisted of serving morning
3654 and vesper services every day and holidays, and between that time I worked in the office all day. My duties also required me to visit various parishes within the diocese and to keep the records of the diocese. I took correspondence between the priests and the people of the diocese and the Bishop. I was not born in that diocese.

3655 I am acquainted with the condition of the diocese of Timok prior to World War II. We had exactly 120 churches in the diocese before the war and the
3656 same number of clergy. In 1963 at the time I left the diocese, there were the same number of churches.
3657 However, there were only 31 priests and only 31 of the churches were in operation. During the six year

period I was connected with the diocese no one from the town of Zajcar was married in the church.

3661 Offer Of Proof: Based on my comparison of the records before the war everybody was baptized and now only 5%. During the six years I was connected with the diocese there was no Sunday School or Church program in the various parishes.

3662 These programs had existed prior to World War II. There was an active Sunday School program in these 120 churches in the diocese prior to World
3663 War II. End of the offer of proof.

I was assigned to the Cathedral Church of Zajcar commencing in 1957.

3667 Offer of Proof—About fifty people, old people, mostly ladies, attended church on Sunday. The average attendance on a Sunday prior to World War II was from 200 to 500. During the time that I served at the church during the week, no one came to morning or vesper services held at the cathedral. I am familiar, in my capacity as secretary, with attendance throughout the diocese of Timok. The situation was the same in the 31 churches which were operating. The others were closed. End of the offer of proof.

3669 I am only familiar with the building of new churches or the rebuilding of existing churches in the Serbian Orthodox Church in Yugoslavia which occurred in my diocese. There have not been any churches built since World War II. There are a few churches which were unfinished at the time of the war that have since been completed. I know of six churches which were not completed. I am familiar
3670 with an attempt to start a church in Zucobach in the middle of our diocese. The church in Zukobach is
3671 one of those six unfinished churches to which I made

a previous reference. The people in the parish made an attempt to complete the church after World War II with the Bishop's aid, that is, Bishop Emilijan. The people collected some money and they donated some work to complete the church and the government stopped it. I have knowledge of this because I was sent personally by Bishop Emilijan to investigate.

Offer of proof—People who tried to finish the church were beaten and punished by the government. End of the offer of proof.

3674 The diocese of Timok did not receive any money from the government during the period of time that I was with the church. My salary was paid by the Cathedral of Cajcar. The money was raised by selling candles. The source of money for the operation of the diocese of Timok presided over by Bishop Emilijan was from assessment of the churches. Bishop Emilijan's salary consisted in part of monies received from the diocese and in part from Belgrade. The money from Belgrade was sent to the Patriarch by the government. Some portion of the Bishop's
3675 salary was paid by the government. It was a practice of clergymen in the Serbian Orthodox Church who left Yugoslavia prior to 1963 to disregard the procedure of obtaining permission from their Bishop or from the government before leaving. There was
3676 no practice with reference to a clergyman obtaining the permission of his Bishop or the government prior to leaving Yugoslavia before 1963.

3677 This course was changed after 1963. Prior to 1963 we did not punish anybody who left Yugoslavia. After 1963 they did.

3678 I am familiar with the Religious Affairs Commission of the Yugoslavian government. This is a com-

3679 munist government body who completely controls the church in Yugolsavia.

• • •

FATHER JOHN MEYENDORFF testified as follows:

Cross Examination.

3776 I'm the same John Meyendorff who testified earlier. Before testifying I read plaintiff's exhibits 1 through 4 and the sub-exhibits incidental thereto concerning the action of the Assembly on May 10, 1963. I also read the constitution of the Serbian Orthodox Church before forming my opinion. I do not recall
3777 who had authority to amend the constitution under the terms of the constitution of the American-Canadian Diocese. I assumed that the actions creating the three new dioceses and the suspension deposition and defrockment of Bishop Dionisije were taken by men of good spirit under the rules of the Serbian Orthodox Church.

VERBATIM TESTIMONY

[3777] Q. Do you recall who had authority to amend that Constitution under the terms of the Constitution of the American-Canadian Diocese?

A. Well, I certainly recall that this Canadian-American Diocese recognized itself as part of a hierarchical structure of the Serbian Orthodox Church and recognizes the canons and Holy Assembly of Bishops. This is something I remember very clearly.

Q. There is no dispute about that. My question is, who is it that prepares or initiates amendments to this American-Canadian Diocese, if you can recall through your reading of that Constitution?

A. I cannot recall offhand.

Q. I take it, Father, that in arriving at the opinions to which you testified regarding the creation of three new dioceses and the suspension, deposition

and defrockment of Bishop Dionisije, that you assumed that these—that the action reflected by the exhibits which you read were actions taken by men of good spirit under the rules of the Serbian Orthodox Church.

A. Well, this was my definite impression, yes.

ABSTRACTED TESTIMONY RESUMED

3778 I did not attend any of the proceedings of the Serbian Orthodox Church in connection with the division of the diocese or the suspension, deposition or defrockment of Bishop Dionisije. When I read the documents I made a judgment that they appear to be in proper form.

3779 I read the indictment of Bishop Dionisije. I assumed that the charges by and large made in the indictment were true and that's part of the basis for my opinions.

When I stated that Canon Law is something like Anglo-Saxon I meant the common law. I wouldn't
3780 say the canons amount to precedent but are a body of canonical texts which have authority in the Orthodox Church; there is much which is mainly precedent but there are also formal legal texts as well. The constitution of the Serbian Orthodox Church is canon law as far as the Serbian Orthodox Church is concerned. I did not read the penal code of the Serbian Orthodox Church in preparing to testify and I am not familiar
3781 with it. In giving my opinion as to the suspension, deposition and defrockment of Bishop Dionisije I did not consider whether or not the penal code of the Serbian Orthodox Church had been complied with. My impression and familiarizing myself with
3782 the exhibits was that the procedures were correct. I did not consult Articles 67 and 90 of the Rules and

Procedures of the Ecclesiastical Courts of the Serbian Orthodox Church which are referred to in PX 1. The penal code is not a kind of canon law; it is rather a kind of set of procedural rules which the Holy Assembly of Bishops applies in accordance with the canon law of the church. It should be based on the canons. The procedural rules are obligatory for the body which issued and applies them. If the Holy Assembly of Bishops refers to the procedural rules
3783 I presume that they are authoritative.

An autocephalous church is one which is totally independent in its government and particularly in the appointment of its bishops. Autocephalous means that the bishops are elected in the framework of the rules of this particular church. An automonous church is normally a church which is in a situation of dependence towards a higher body in one way or another. There can be large autonomies or there can be restricted autonomies. If its constitution is so defined, an automonous church could have complete freedom in terms of its own Council and be dependent on another higher authority for the election or consecration of its bishops. I would make a distinction between a wide use of the word "autonomy" and the very sort of clear definition which is usually given to an automonous church. There are a number of well-known autonomous churches in the Orthodox Church today.

I testified that consensus among the Orthodox Church is a difficult thing to define but by and large it means approval by fellow bishops and fellow autocephalous churches. The canons provide that in certain cases a decision by the Holy Assembly of Bishops may be subject to review by the bishops of an-
3785 other autocephalous church. There is no require-

ment for one Orthodox Church to obtain the approval of another Orthodox Church in decisions regarding internal affairs. By and large the other autocephalous churches do not express opinions upon the conduct of another autocephalous church, unless the appeal is addressed, for example, to the ecumeni-
3786 cal patriarch in Constantinople. The canons give a right to the Assembly of Bishops of the Synod of the
3787 Ecumenical Patriarch to give an opinion. I do not know of any particular procedure for the ecumenical patriarch to follow. By and large consensus is a matter generally implied.

I testified that there is concensus among the Orthodox Churches and bishops in this country and abroad with respect to the diocese and suspension deposi-
3788 tion and defrockment of Bishop Dionisije. This concensus is an important element in my opinions. If the decision of the Holy Assembly of Bishops had been considered unjustified in the Orthodox Church I would not say that the decision was justified. It is
3789 regarded as being legitimate. The fact that there is a concensus was a very important element in arriving at my opinion.

I read quite an amount of literature and various decisions and acts concerning this case since 1963 and they were widely published. The exhibits that I examined and testified to earlier impressed me by their volume but there wasn't anything substantially new there which I didn't know before. I had largely formed my opinion before I read those exhibits. This
3790 concensus is an important element in the forming of my opinion.

The Russian Metropolia of which I am a member has never been dependent on Athenagoras. It is an irregular situation as far as the patriarch of Mos-

cow is concerned. There is concensus among Orthodox Churches that the Metropolia is recognized as a valid Orthodox Metropolia. One of those autocepha-
3791 lous churches is the Serbian Church. The recognition of the Serbian Church is welcome I obtained permission from my bishop, Metropolitan Irinej, before I testified.

(The witness reads PX 8).

3792 PX 8 relates to the deposition of Bishop Dionisije. Deposition is the removal of a bishop from his canonical duties in a diocese, canonical pastoral duties in a diocese. There is no canon which forbids an As-
3793 sembly of Bishops to punish a bishop. It is certainly implied in the text that the action against Bishop Dionisije was an ecclesiastical punishment or reprimand although the text does not yet defrock him nor does it impose upon him a kind of penance. It does remove him from his position as bishop of the American Diocese for cause. PX 8 indicates that the Assembly of Bishops were sitting in judgment upon
3794 Bishop Dionisije. No decision of an Assembly of Bishops is infallible; the Orthodox Church believes that infallibility rests only in the Ecumenical Councils. Those councils that have been repudiated by
3795 subsequent Ecumenical Councils are considered as pseudocouncil. I wouldn't say the recognition of the Florentine council as a pseudocouncil came many years after the council met.

The Council of Florence met in 1438, 1439 in Florence and was called as a union council by the Pope in order to secure unity between the East and the West. It reached a series of decisions in favor of union.
3796 Most of the Eastern delegates upon returning to their own countries declared that their signatures were given under duress and they refused, within the fol-

lowing months after the Council, to recognize this Council as valid. At the time it was held it was considered to be an Ecumenical Church; it declared itself to be an Ecumenical Council. Subsequently the de-
3797 cision was repudiated. As a result of this Florentine Council, the Russian Orthodox Church declared itself to be independent of Constantinople and assumed its autocephaly openly.

The Seventh Ecumenical Council met in 787 and condemned the so-called iconoclasts. Its acts were distributed in wrong translations so that it was not in the best interests of Charlemagne to accept this Council but it finally was accepted.

3798 This Ecumenical Council held by icons in churches were to be removed because they were being prayed to. This Council was never recognized by the Orthodox Church as being ecumenical. The Seventh Council in 787 was called for the purpose of putting down the heresy of the Council of 753 which declared that the icons were to be removed. The Council of 753 was a Council of the bishops of the church of Con-
3799 stantinople, fundamentally. The large part of the Eastern world was under Arabic occupation and I wouldn't say that the patriarchate of Constantinople included the whole Christian world. There were patriarchs of Alexandria, Antioch and Jerusalem at that time. These patriarchs and the Pope of Rome did
3800 not send representatives. According to the Orthodox point of view there was no patriarch of Constantinople in 753 because he was heretic. The meeting was
3801 called by the emperor of Constantinople. There was no patriarch of Constantinople in 753, not even a heretic. Because the State forbade any possibility
3802 of rejecting the Council it was not repudiated until 787.

The bishop is the pastor, the head, the teacher, an example to his flock and he has the responsibility to lead the flock to the kingdom of God. If the flock is in need of defense, he is certainly the defender and advocate in matters of religion and doctrine. There are incidents in church history in which an Orthodox Bishop suspended the ties of his flock with the Mother Church in defense of that flock and that diocese. My own church in America is an example.

3803 With respect to my church, following the Communist Revolution of 1918, there were tragic and dramatic events. In 1920 the patriarch and his Synod issued a ruling saying that the bishops who could not communicate with the patriarchate could practice temporary self government. That was done by Patriarch Tikom. On the basis of that decree the metropolia here declared itself temporarily self governing as early as 1924. It never denied the canonical moral authority of the patriarch over there and tried
3804 to re-establish communication. The real break came in 1931 with a request for a de facto political loyalty to the Soviets. At this point the real moral dilemma arose and this temporary self government had to be revoked.

The Patriarch of Moscow suspended the bishops of the metropolia and put them under trial. However, this break never went to the point of any judgment. Since judgment was never pronounced they really thought this request for loyalty was not a free action and even the patriarchate itself was not quite convinced of acting in freedom. The other Orthodox Churches failed to side with the patriarchate in this case.

3805 The condition of temporary self government still exists in the United States with regard to the Rus-

sian Metropolia. It is the consensus that bishops and all the Russian Metropolia clergy can celebrate divine liturgy with other clerics of the Orthodox Church.

In the nineteenth century there were cases of a similar kind in the case of the Greek Church. For example, their relation with the Greek Revolution of 1921 which lasted for a few years.

In my book, *The Orthodox Church*, published in 1962, I devoted a section to the Serbian Orthodox Church. In that section I related more or less that during the last two decades, the Serbian Orthodox Church has had a series of trials in terms of persecution by the civil authorities of the country of Yugoslavia. I also cited a series of notorious trials of bishops. Bishop Joseph of Skoplie was arrested in 1950 just before the patriarchial election where he was a likely candidate for the Patriarchate. Vikinte
3807 was elected at that election. I have also documented the arrest and sentencing in July of 1954 of Bishop Arsenius of Montenegro. I made this statement at paragraph 164 of the American edition "The situation seems to be somewhat improving at the present time owing to a more conciliatory attitude on the part of Patriarch Vincent of 1954 through 1958 and Germanus' election in 1959."

3808 Germanus is Patriarch German. I also referred to some rather brutal treatment of Serbian clergy in Yugoslavia following the second world war. I worked for the World Council of Churches and Patriarch German is president of the Council. I met Patriarch German in England last summer when he participated in the sessions of the Central Committee. I do not deal with the office of President of the World Council
3810 because I am not on the staff.

Following the refusal of Metropolitan Platon of the Russian Metropolia, the Sabor of that metropolia met and passed a resolution temporarily suspending
2811 its relationship with Moscow. The metropolia supported the decision of Metropolitan Platon.

I am familiar with Professor Alex Bogelpov who is presently connected with St. Vladimir's Seminary as a retired professor. He was the professor of canon law at St. Vladimir until he retired last year. I
3812 succeeded him in the teaching of canon law. He was professor of canon law for 15 or 20 years. I am familiar with the professor's book entitled *Toward an American Orthodox Church*. It is a book which deserves respect and it is considered in studies regarding the Orthodox Church. There are those who
3813 disagree with his opinions and my opinions.

The Serbian Orthodox Church was first given autonomy or autonomous status in about 1832 and autocephalous status in 1879. Patriarch Joachim III was patriarch in 1879. He may have written a letter to Prince Obrenovich but I doubt that this letter was the canonical act which established autocephaly. I
3814 agree with the statement of Professor Bogelpov in his book at page 21: "It is true that the letter of Patriarch Joachim III concerned the Serbian Church as a national one, but even in this case the national principle was again subordinated to the territorial; the Serbian Church was recognized as independent, as long as its members were within the borders of the State of Serbia. However, the Orthodox Serbs living outside the Serbian state, for example, in Austria, were not regarded as belonging to the autocephalous Serbian Church, and they were not granted its privileges."

I have no knowledge whether any of the dioceses of the Serbian Orthodox Church inside Yugoslavia have constitutions but I believe that they do not. I know the American diocese has one.

I agree with professor Bogelpov's statement in his book at page 22: "This statement by Patriarch Alexis evidently rested upon canons 13-15 of the First and Second Council of 861 in Constantinople. These canons permit and even approve withdrawing from communion with higher ecclesiastical authorities who publicly preach a heresy already condemned by the Holy Council of Fathers." There is canonical authority for withdrawing from communion with a hierarchy for dogmatic reasons, not for canonical. When there is a conflict of beliefs and principles concerning the order of the church I would agree with the professor's statement at page 23: "Therefore canons 13-15 of the Council of 861 are no restriction on the broader meaning of the thirty-first apostolic canon and hence, the reasons for secession can be canonical as well as dogmatic." There is no doubt that the canons permit withdrawal if the higher authority betrays orthodoxy, betrays the faith of the church concerning God, Christ, or even the structure of the church and this withdrawal is of necessity. But this withdrawal should imply a motivated accusation of heresy and obstruction of the canons of the church. This was not at all the case of the Russian church in America which never accused them of heresy and spoke only of temporary possibility of administration.

I did testify that there was some conditions necessary for a church to receive autocephalous status. Generally speaking, I would agree with Professor

Bogelpov's statement in page 24 of his work: "If an ecclesiastical region not only fulfills the three principal requirements necessary for receiving autocephalous status (canonical origin, presence of a least three duly-appointed bishops, and location and estate other than that of the Mother Church), but also as other reasons forcing it to separate from its Mother Church, then these additional reasons take on special importance; they force the ecclesiastical region to use its canonical rights to complete the independence and speed up the process of separation from the Mother Church." The professor does not mention here a condition which he speaks of in other pages of his book, that of the recognition by the Mother Church of other churches which is a necessary prerequisite for a canonical autocephaly. I testified that one of the necessary elements would be the consent of the Mother Church.

I agree in the context in which he speaks with professor's statement at page 29 of his work: "The distinction between the separation of clergymen from communion with their superiors and the establishing of a new local church is of great importance for the understanding of the canonical meaning of different types of separation in the Orthodox Church. While the withdrawal of clergymen from communion with their hierarchical superiors is generally an enlisted and arbitrary action, the establishing of a new local church is not necessarily a schism but may be canonically lawful. Consequently, persons taking part in the canonical organization of a new church are not liable to punishment, as required by the First and Second Council of 861. The opinion that the Mother Church alone is entitled to grant autocepha-

lous status not only has no basis in the canons reviewed, but is also inconsistent with the principles of orthodox canon law." The professor's statements refer to the establishment of a church for the orthodox in a country, for example, an American Orthodox Church.

There is unity of faith in the orthodox faith but there certainly is not unity of administration and discipline. I agree with the statements of Professor Bokelpov at page 45 where he states that there are very few examples of a Mother Church granting autonomous or autocephalous status to a subsisting part of itself in a comparatively short time and notes that in a number of cases the patriarchs had to recognize churches after they had proclaimed themselves independent, the Church of Greece 17 years after proclaimed itself autocephalous, the Romanian Church 20 years after, the Albanian Church 15 years after, and the Bulgarian Church 72 years after. The Serbian Church was recognized 30 years after it proclaimed itself independent and the Russian Church 140 years afterwards. In the twentieth century the Patriarch of Moscow recognized the Finnish Church 35 years after it had been granted autonomy. I do not feel that these illustrations apply to the con-
3825 flict of an individual diocese with their Patriarch.

Redirect Examination.

3826 I didn't have time to read the whole penal code this morning but I did read the two paragraphs referred to in the act of the deposition of Bishop Dionisije. I was confirmed in my opinion after reading these two articles. I read the first sentence of Article 67: "The initiation of the due process is not

3829 bound by any formalities." A suspension is a tem-
3830 porary measure which is taken in general practice of canon law when a person is called on trial. The deposition is a canonical action depriving the bishop from
3833 his functioning in the diocese and requires a procedure.

(Beginning of an offer of proof) In my opinion the indictment is not required to be under oath. An
3834 oath has been widely considered as anti-scriptural and therefore is not required in ecclesiastical courts. (Offer of proof is closed and the offer is refused).

In the penal code I know of nothing which requires
3835 indictment to be under oath.

The Church of Finland and the Church of Crete
3838 are autonomous churches. The Serbian Orthodox Diocese of the United States of North America and
3839 Canada, a religious body, is not an autonomous church. The term autonomous church is used for churches which are composed of two or three dioceses and they are well known as such among the Orthodox Churches
3842 today. Incorporation is a legal term which is a recent origin in America and which belongs to secular law and therefore does not belong to the church as such although the church while it's in the word has its own property and can use such concepts as incorporation as an instrument for keeping its property.

I read PX 84 before testifying and I had that in mind when I gave my opinions with respect to the division of the diocese and the suspension, deposi-
3845 tion and defrockment of Bishop Dionisije. In my opinion, with respect to the validity of the defrockment of Bishop Dionisije, I did assume the truth of the portion of the indictment which reads: "For breaking his episcopal oath and for refusing to sub-

mit to the decisions of the highest church authorities—the Holy Episcopal Council and Synod of the Serbian Orthodox Church." I also assumed the truth of the recital at page 2 of the judgment: "For his refusal to participate orally and directly in an investigation before the investigating committee of the Holy Epis-
3848 copal Synod, concerning the charges submitted against him."

In rendering my opinion with respect to the validity of the defrockment of Bishop Dionisije I assumed the truth of the following recital in the judgment: "For officiating in church ceremonies and for performing the duties of diocesan bishop after having been indicted and suspended from the performance of church
3849 ceremonies and relieved of the duties of diocesan bishop." In rendering my opinion I assumed the truth of the following: "For accepting clerics who had no canonical release, as well as persons who were under suspension from the performance of church ceremonies, and for entrusting them with paro-
3850 chial duties." I also assumed the truth of this recital in the judgment: "For committing wrongdoings of a material nature and for conducting himself in a manner unbecoming priestly rank and position." I also assumed the truth of the statement: "For ordaining and bestowing ecclesiastical ranks of honor on such persons who according to the canons do not possess
3851 the necessary qualifications for ordination." And "For proclaiming the Serbian Orthodox Diocese of America and Canada fully autonomous and separating it from the Mother Serbian Orthodox Church at the so-called Church National Assembly held November 13 and 14, 1963." (Beginning of offer of proof)
3852 Some of the foregoing paragraphs I have recited

would be sufficient in themselves to warrant defrockment. The first, relating to refusal to participate orally and directly in investigation and the fourth for committing wrongdoings of a material nature standing alone would be sufficient to warrant defrockment. I think a more thorough canonical investigation on my part would be necessary to give a direct answer. I am assuming the truth of the facts recited and I can only be affirmative one hundred percent on those two paragraphs. (Offer of proof concluded and the Court refuses same). I have Exhibit 8 before
3855 me. I assumed the truth of the facts recited in
3856 paragraphs 1 through 12. (Beginning of offer of proof). There are paragraphs here which seem to be in my opinion sufficient grounds for deposition, paragraph 3 which refers to not recognizing the Court of
3857 the Holy Synod and 7. Four and five are the same as three. Number 8 is the same in substance as before. Number 9 is obviously going far beyond the rights of a diocesan bishop. Ten, eleven and twelve
3858 are follow-ups of 9. (Offer of proof concluded and it is refused by the Court).

3859 I recall testifying that I read PX 1. A serious canonical accusation which the Assembly accepts to place under investigation warrants the suspension of a bishop. Once the suspension is pronounced a trial is the legal obligation for the Holy Assembly of Bishops. The bishop under suspension cannot per-
3863 form his episcopal duties and functions.

The word schism has been used widely in connection with this case. (Beginning of offer of proof)
3864 In a letter Bishop Dionisije wrote to the Patriarch of Moscow he calls the Patriarch of Serbia a schismatic patriarch so one of them is certainly a schis-

matic. I personally believe that Bishop Dionisije is schismatic. I guess those who pay allegiance to him
3865 are in the same situation. (Offer is closed and refused by the Court).

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ALEXANDER IVANOVICH (Previously called) testified as follows:

3920 *Direct Examination.*

DX 12-A is a photostatic copy of the official government paper of Yugoslavia which concerns itself with the religious affairs commission. Exhibit 12 is an accurate translation of 12-A. DX 13, at page 30, pur-
3921 ports to be the report of the subcommittee to investigate the administration of the Internal Security Act and other internal security laws in the committee of judiciary of the United States Senate, Volume 3, printed for the use of the committee on the judiciary U.S. Government printing office, Washington, in 1965 under the title, "The Church and State Under Communism". On page 30, the reference is to the government commission on religious affairs decree creating a government commission of religious affairs, August 21, 1945, superseded by a decree of February 26, 1959. This is the same religious affairs commission to
3922 which I had reference in my prior testimony. DX 14 purports to be a letter addressed to His Grace the American and Canadian Bishop Lord Dionisije from the president of the Holy Bishops Synod, the Serbian Patriarch German, dated September 26, 1961. I recognize the signature on this document as that of the Patriarch and also the seal which is affixed thereto.

3948 In 1962, I recall an Assembly of the Holy Council of Bishops. At that time Bishop Emilijan was a

Bishop. I am acquainted with Nikolai Rachich who is vice-president of the Religious Affairs Commission in Zajecar. I recall that he asked for an appointment with Bishop Emilijan shortly in advance of the meet-
3949 ing of the Holy Assembly of Bishops. At that meeting Bishop Emilijan was present, Nikolaj Rachich was present, I was present and Proto-Dragisa Mila-
3950 tich was present. Mr. Rachich said, "Your Grace, you are going to the Holy Assembly for a few days. However, there will be a matter about Bishop Dionisije who is now in the United States and is the enemy of
3951 our country and doing everything against our country." He also told the bishop that Bishop Dionisije should be removed from his position. Bishop Emili-
3952 jan replied, "We know all that is not everything what is to be, but we will see what we can do." Bish-
3953 op Emilijan then went to the meeting. I recall in
3954 July of 1963, a conversation took place in Bishop Emilijan's office between the same two parties. I was present this time as was Dragisa Milatich.

3955 This meeting occurred just before the special session of the Holy Synod in Belgrade. Mr. Rachich said, "We want Archimandrite Firmilian to be bishop in the U.S. and Canada." Bishop Emilijan replied, "He is not moral qualification for the position." Rachich then said, "This is not important. Our government wants him and he will be good for us and for you too." Finally the Bishop said, "We
3956 have some documents in the Holy Synod possession against Archimandrite Firmilian. Anyway we will see what the other brothers can do." After this
3957 Mr. Rachich offered the bishop his private government car to take him to Belgrade. The bishop refused the offer. Mr. Rachich offered the Bishop a special

coach in the train, however, he refused that and went by ordinary train travel. We walked to the train station and I saw a member of the secret police accompany the Bishop to Belgrade. As secretary and prosecutor I was not allowed to vote in accord with the decisions. However, on one occasion I recall being involved in an Ecclesiastical Court action when I was permitted to vote.

Offer of Proof. The higher Ecclesiastical Court objected to my presence as prosecutor and secretary. End of the offer of proof.

Cross Examination.

I am married and was at the time I left Yugoslavia. I have children who are with my wife in Yugoslavia. My child was born in 1958. I have participated in divine services with Bishops Dionisije and Irinej since 1963. I left Yugoslavia for Switzerland and from there wrote Bishop Dionisije asking him to take me under his jurisdiction. After a month in Switzerland I went to Italy and remained there for a year and a half. Bishop Dionisije appointed me to a church office as secretary of the church congregation in Trieste There were a number of priests appointed at that time. Dushan Vavich was one of the six priests who escaped with me. Before leaving Yugoslavia I made a request to Bishop Emilijan for permission to leave. I received that permission in writing but I no longer have it. The permission was for one month in Switzerland and I did not tell him that I had no intention of returning to Yugoslavia.

PX 158 is a letter which I received from Bishop Emilijan subsequent to my leaving Yugoslavia. PX 159 is my response to Bishop Emilijan. PX 160 is the last communication which I have received from Bishop Emilijan.

I recall becoming knowledgeable of the fact that the Holy Assembly of Bishops met on May 10, 1963, and took action with respect to Bishop Dionisije in the American-Canadian diocese. I do not recall the date, but I was still in Yugoslavia when I heard about it. I learned about it through the communication directed to Bishop Emilijan.

Witness excused.

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ALEXANDER IVANOVICH testified as follows:

Cross Examination (Continued)

Bishop Emilijan did not ask me if I did not intend to return after my 30 day leave in Switzerland and I did not inform him that I would not. I do not know if the World Council of Churches, at any time during the period when I was in Yugoslavia, supplied any money to any clerics of the Serbian Orthodox Church in Yugoslavia. I did not receive nor did I request a canonical releases from Bishop Emilijan from my duties as deacon and proto-deacon of the diocese of Timok. During World War II, many of the hundred and twenty churches in the diocese of Timok were badly damaged. The bishops or the clerics and many people assisted in the rebuilding of these churches, but by October of 1963 none had been restored.

As there were only 31 priests remaining in the diocese, services were only being held in 31 Serbian Churches. It is the practice in Yugoslavia for priests to travel from church to church and congregation to congregation. These priests officiated at baptismals and funerals, but during the six years I was there I never saw a marriage in one of these churches. During all of the time I was in Yugoslavia and a cleric

in the diocese of Timok, I never witnessed a marriage ceremony in my diocese. The Holy Liturgies were
4143 performed only in churches and on the rarest of occasions in other buildings, but never in a home. A
4145 priest is allowed to participate in one holy liturgy on a Sunday. There was no rule which prevents a priest
4146 from one parish going to another to deliver the Holy Liturgy.

4148 In Yugoslavia the people attended services during
4149 the Easter period and a celebration was held to cele-
4150 brate the new year. I accompanied Bishop Emilijan
4178 to the Sabor of the Holy Assembly of Bishops in 1962. We traveled by train. We traveled first class
4181 which was a separate compartment containing two
4186 beds. I accompanied Bishop Emilijan on his journey from Cajkar to Belgrade to attend the meeting of the Holy Assembly of Bishops in July of 1963. Bishop Emilijan was not a communist. Bishop Emilijan did
4187 not summons me to return to Yugoslavia after my departure.

4188 What has been marked as PX 158 was received by me and is signed by Bishop Emilijan and it bears the seal of the Bishop and diocese of Timok. The letter of Bishop Emilijan dated 27 July, 1968, did not request that I return to Yugoslavia and assume my clerical duties there. Exhibit 158 which is that letter states in part, "On the basis of the above Assembly's decision, we are calling you to return to our Mother Church and regulate your canonic status with our Bishops over there. His request was that I regularize
4194 my canonic status with the Bishop of the Serbian Orthodox Church with its patriarch and Holy Assembly of Bishops in Belgrade; that is the Bishop of that church in the United States. I refused to do so.

PX 160 is a document which I received here in America and is signed by Bishop Emilijan and has the diocesan seal. It is dated December 24, 1969, and is addressed to the Father Alexander. This document
4198 in part states that I was notified to regulate my canonical status, and failing to do that, article 91 of the proceedings for ecclesiastical courts would be
4199 applied. Since I have not repented and returned to the church, by declaratory judgment, they have deprived me of the rank of deacon and at the same time erased me from the list of clerics of the diocese of Timok returning me to my former position of layman.

4201 *Redirect Examination.*

PX 159, also marked as DX 15, is a letter dated November 18, 1968, addressed to His Grace Bishop of Timok, Emilijan. This letter was written by me in response to the Bishop's letter to me dated 27 July, 1968.

4213 After my departure from Yugoslavia I tried to bring my wife with me, but permission was refused by the government. My wife has made many efforts
4214 to come to the United States. I received these documents marked DX 16 and 17 from my wife which are letters from the Yugoslav government denying her permission on her request for a passport. Both letters are signed and sealed by the Republic of
4216 Serbia. I have also written to my senators and sent money to my wife. Finally in 1960, I went to Trieste and she came to see me. My wife came across the
4219 border at Trieste without our child and told me, "They allowed me to come and if you are joined to Bishop Firmilian, I will come with child to you". This was in 1968 at the beginning of August.

4223 *Recross Examination.*

The last I saw Dushan Vavich was in 1963 when I
4224 left Trieste. As I have not talked to him since then, I have no idea what he considers with respect to his clerical jurisdiction.

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4586 ZIVAN STEFANOVIC testified as follows:

Direct Examination.

My name is Zivan Stefanovic and I am a Cleric of the Serbian Orthodox Church. I was born in Yugoslavia on August 26, 1911 and I was ordained in 1934
4587 in Skoplje, Yugoslavia. I attended High School in Uzice and Seminary in Bitolj. I graduated from high school in 1927. I entered Seminary in 1927 and graduated in 1932. I attended the Theological Faculty in Belgrade from 1938 till 1942. I graduated from the University of Law at Belgrade attending the
4588 university from 1946 till 1950. I was a professor for two years in the monastery Rakovica teaching canonical law. After my ordination in 1934 I was working with the church court of the diocese of Skapolje from 1934 until 1938. Then I was transferred to Belgrade's church court where I stayed until the end of 1944. Then I was transferred to the High Church Court in 1944 and stayed there until February 27, 1965. I left Yugoslavia on March 9, 1965. The president of Belgrade's Church Court is the Patriarch, first Gabriel, then Vicente and now German.

4589 My titles or position depend upon the years; in the first years I was like a clerk assistant. The first
4591 three years of court service are preparatory. In 1937 I was given the examination required for positions of church court's judges. I then became a permanent service in the court. From June 1, 1938 till December 1944 I served with the Belgrade Diocese Court. I did not hold any title in connection with
4593 that service. From December 1944 until February 27, 1965 I served the High Church Court and the Holy Episcopal Synod from 1952 to February 27, 1965. (Defense Counsel notes that he is handing PX 68 B, the Serbian of the Church Constitution to the witness) The High Church Court is referred to in Article 71 to Article 81 of the Constitution. I was referent to the High Church Court. This position is mentioned in paragraph 72, sub paragraph V. (The
4595 interpreter states that in English it would be "C".)

The duties of the referent in the High Church Court are various. At the present time the church hasn't the financial means to keep a bigger number of Clerk in the High Church Court. As a result I
4596 had to prepare everything that was needed for bringing up the judgments from members of the High Church Court, 3 Bishops and two members of priestly rank. I was involved in the meetings dealing with reports of matrimonial nature and criminal matters on priests. The High Church Court made short decisions which I worked out and prepared in official form as is customary in the High Church Court.

I had duties in connection with Holy Bishops Synod. I was the referent in the Holy Bishops Synod and editor of the official Serbian Church newspaper, Herald. I was referent from 1952 until 1965. During the times of Patriarch Gabriel and Vincente I was not present at the meetings of the Holy Synod. Beginning with the election of Patriarch German I
5497 participated in the meetings. In the Holy Synod the

work is divided into legal, administrative, financial and schools. I was given the sphere of legal matters but I worked in others.

4601 My duties in the Diocese in Skoplje from 1934 to 1938 were in general preparatory procedure, participating with one of the members of the court in questioning witnesses, writing the minutes about their testimonies, reworking decisions which have to be sent to parties participating for the court, or calling upon witnesses who have to come before the court at a certain day. I also worked on subjects which were not purely church nature and which involved decisions on the basis of civil law. For mar-
4602 riage questions we had the church cordex under the title of marriage law of the Serbian Orthodox Church. In relationship between parents and children we had the state law. I brought the decisions, taking care of what the church requires and what the state laws prescribe.

There is only one supreme church court in the Serbian Orthodox Church. For Bishops the constitution foresaw a separate court, the Holy Bishops Synod in the first degree and in the last degree the Holy Bishops Assembly. Two kinds of subjects are
4604 considered by the supreme court, one coming by official duty and the other by complaint. Article 79
4606 of the constitution of the Serbian Orthodox Church states the kind of cases considered by the supreme ecclesiastical court. The court does not consider any case in the first degree. It is the second degree court and all of its decisions are final; no one can appeal
4607 from these decisions. As referent of the supreme church court I had to accept every subject, report it in the recording book, study the content of the first

decision of the lower church court, the complaint and all the papers and documents. After that I had to investigate whether the judgment of the lower court violated some regulation of the constitution or the
4608 code of procedure. After that I wrote in written form in the shortest manner what the judgment contained, what the complaint contained, what the papers and documents contained, and I gave my recommendation to the members of the court for their decision. When several subjects had been prepared I informed the president of the court and he
4609 called meetings. (Discussion among counsel and the court that witness's term "Complaint" means "Appeal".)

4611 When the day arrives the president comes with four members, two of whom are bishops and two priests functioning as honorary members as is required by article 72 of the constitution. When all
4613 the papers from the first degree diocese and court are read supreme court agrees on the judgment or nullifies it. If the judgment is nullified the reasons have to be given for nullification. I kept two books of these meetings. The first served to write down the decision of the meeting and the second, which is worked after the meeting, to prepare the judgment as a whole for signature by the president and the members of the court. The judgments given to the parties were signed by the president and the refer-
4615 ent. I prepared the judgment order of the supreme court.

4616 After World War II I was a member of a legal committee formed by the Holy Bishops Synod. I crossed the border in 1965. I was appointed to the committee by the synod. The name of the committee is the legal committee.

I was the editor of the Herald from 1955 to 1965 having been appointed by the Holy Synod. The Herald is an official journal of the Serbian Orthodox Church composed of two parts, the decisions of the Holy Assembly and the Synod and the decisions of the Diocesan Bishops and the second part, various articles from the cultural life of the Serbian Church of the Serbian People. It is known as the Herald or Glaznic.

4618 When I was a teacher at seminary I wrote a book on family law in which I handled matrimonial law, parental law, and guardian law. I taught church law and the Serbian language in the seminary.

After reviewing the appeal I made a recommendation to the court for its action. When a judgment
4620 of the diocesan church court is annulled the judgment of the supreme court quotes the law which was wrongly applied and instructs the diocesan court how their mistakes or errors are to be corrected by a new judgment. I composed the instructions to the diocesan court.

4621 I have examined PX 69A. I am familiar with the document. It's the penal law of the Serbian Orthodox Church, consisting of two parts, one part up to article 63 named material regulations of penal law and the second part, article 63 to the end of article 92,
4622 procedural law. This penal code was written in 1961. I am familiar with the customs, procedures and practices followed by participant in matters being processed under the penal code of the Serbian Orthodox Church. I am familiar with section 67 of the penal code.

4634 Article 70.35 of the constitution of Serbian Orthodox Church states that a Bishop is judged in the

first degree by the Holy Bishops Synod. In the second and last degree the Bishop is judged by the Holy Bishops Assembly. This is spoken of in article 69.27B. There is no appeal from a last degree judgment. In the penal code the judgment of Bishop is spoken of in article 63 which in the main repeats the regulations of the constitution. I will read the provision of article 70 to which I just referred. Point 35 says it is understood that "Holy Bishop Synod Judges in the first instance a. Discord among the bishops, b. canonical offenses of Bishops, c. disciplinary courts violation of its organs and judges
4636 their discords, d. in the last instance of disciplinary offenses, of the teachers person and personnel of religious schools and seminaries."

The assembly of bishops judges in the second instances and article 69.27 B states that the assembly judges all cases in which the Holy Bishops Synod in
4638 the first degree judged. I just read from exhibit 68B.
4639 In order that the thought would be in full I had to add that in the second and final instance judges all the cases in which the Holy Synod in the first in-
4641 stance judged. The Holy Assembly judges in the first and final instance, as spoken of in article 69.27A the discord among the Bishops and the Holy Bishops Synod or among the Bishops and the Patriarch, and canonical offenses of the Patriarch.

4642 Court of first instance must render a judgment or decision of the case under consideration. Article
4643 63 of the penal code requires the court of first instance to make a decision. This article refers to judgments by diocesan bishops, diocesan church courts, the supreme church court, the special church courts foreseen by article 70.35 and 69.27 of the Serbian Orthodox Church constitution.

The Penal code indicates which court shall retain
4646 jurisdiction until process is concluded. Article 64
4647 provides in part: "The church court which was in jurisdiction for starting the procedure retains its jurisdiction up to the end of the procedure." (Coun-
4649 sel for defendant reads this sentence from PX 69 the penal code, article 64 "The ecclesiastical court which had competence to initiate the due process shall retain its competency until the process is concluded.")
4650 All judgments which are brought by the Synod on canonical offenses of Diocesan Bishops are appealed to the Assembly according to article 67.27 which decides the case in the second and the final instance. Article 78 of the penal code concerns appeals from the decision of the Holy Synod. (Defense counsel
4651 quotes article 78 of PX 69 "Appeals against judgment decrees of the Courts of the first instance are allowed to be made to the Court of the second instance except in those cases mentioned in article 108.19 and article 217.2 and article 69.27 of the constitution of the Serbian Orthodox Church."

4652 Article 77 and 124 of the Serbian Orthodox Church constitution and article 82.2 and 3 of the penal code prohibit certain members of the Holy Bishops Synod when acting as a Court from participating in the judgment of a particular case. The same articles apply to the Holy Assembly when acting as a Court.
4654 Defense counsel quotes article 77 of the constitution "A member of great ecclesiastical court who is personally interested or has participated in investigation or as judged (the same) in a lower instance (court) cannot adjudicate that subject." Article 124 is also read: "A member of the ecclesiastical court who is personally interested or one who has participated in the investigation of the subject being adjudi-

cated cannot take part in the judging.") (Defense
4655 counsel quotes article 82 of PX 69, the penal code: "The court of the second instance will annul the judgment decree of the court of the first instance: . . . 2. If it was not properly and duly constituted and 3. If in the deliberations disqualified or bribed persons participated.")

I am familiar with article 90 of the penal code which was in force and effect during the year 1963. (Defense council reads article 90 "In those cases provided for in article 69.27 and article 70.35 of the constitution of the Serbian Orthodox Church, the rights of the diocesan bishop as provided for by these statutes shall be assumed by the Holy Assembly of Bishops respectively, the Holy Synod of Bishops according to the regulations of the constitution of the Serbian Orthodox Church and the regulations of these bodies for conducting business." (Lengthy discussion continuing to page 4686 concerning trial dates is omitted.) (The Court states that the wit-
4692 ness is recognized by the court as an expert in the interpretation of the penal code)

4693 Article 63 of the penal code refers to the procedure prescribed for both monks and priests. The same procedural rules apply to the prosecution of charges against the Bishop as are applied in the prosecution of charges against a monk or priest.

4694 I am familiar with the procedures and practices existing under the penal code during the years 1963
4697 and 1964. In the penal code there are two kinds of offenses mentioned for the clergy. One is of a smaller nature and does not go to the ecclesiastical court, being resolved by the bishop of that jurisdiction who punishes by warning or repremand. Article 56 also

provides for lesser offenses penance for 15 days and suspension from service in the church for 30 days.

For offenses of a more serious nature the bishop does not execute the power of the church court but the accusations are transferred to the ecclesiastical court which will, after due proceedings as found in the rules of procedure, pronounce its judgment. Article 57 of the penal code as well as articles 216 and 217 of the constitution refer to this. Article 55 of the
4698 penal code is identical with the provision of the constitution. A punishment imposed by a bishop is spoken of in article 56 of the penal code. The term
4700 used to describe a punishment imposed by a Bishop is "Disciplinary Punishment". This term is used in articles 44 and 56 of the penal code. It is also used in article 60 of the penal code.

4703 Article 56 of the penal code divides all offenses of priests and laymen into two categories. In the first category belongs a warning, reprimand, penance for 15 days and suspension from clerical duties for 30 days. These penalties are not pronounced by a church court but are pronounced by the Bishop. Article 56 of the code and article 217 of the constitution speak of this. The second category of offenses includes transfer to another place of service, suspension from clerical duties for more than 30 days, loss of a place of service for those who are not parish priests, suspension from clerical duties for life, defrockment, defrockment with expulsion from church membership, expulsion from the order of monks. These are the punishments for the clerics. These things are recited in article 216 and 217 of the constitution and article 55 of the penal code. A Bishop does not handle mat-

4705 ters of a more serious nature but they are handled by the constitution and the penal code.

4708 When a report comes charging a criminal offense against a cleric, whether it is a bishop, a priest or a deacon, the organ, be it the bishop or the Holy Synod, because the Holy Synod executes the right of a Bishop according to article 90 of the penal code when a bishop is in question, makes a report either to the church prosecutor or it appoints another person which will investigate the citations and the report, collect all proofs, investigate the witnesses and all other facts and circumstances. The investigator will return the whole case of materials with all of the facts collected to the organ which appointed him to conduct this investigation.

4709 When the documents arrive the jurisdictional organ determines whether the penalty is of a disciplinary kind or whether the transgression is of a more serious kind in which case all the documents with all the material of the investigation will be transferred to that court for further execution. When the court receives the case, all the documents are given to the court prosecutor and he writes the indictment on the basis of all the collected facts and documents. The indict-
4710 ment is then sent to the parties that are involved. If an answer comes or does not come the court sets a date for a hearing and invites the accused at which time the subject matter is resolved and a judgment is rendered. The court of the first instance sends the case to the court of the second instance either by official duty or by appeal of the interested party. This generally describes the procedure which is conducted against clerics before the church court in the Serbian Orthodox Church.

4715 By jurisdiction organ I mean the Bishop for priests and deacons. For bishops the jurisdictional organ is the Holy Synod, according to article 90 of the penal code. For a Patriarch the jurisdictional organ is the Holy Assembly of Bishops. This is also mentioned in article 90 of the penal code.

4716 The right of an accused to receive the complaints against him is to be found in the last part of article 67 of the penal code. In 1963 and 1964 there was a
4718 practice in the Serbian Orthodox Church with regard to providing copies of complaints against an accused under article 67. Each court has a duty to find the truth in a criminal case. Because of that, during the 30 years that I spent in court it has never happened that somebody was not allowed to receive a written complaint, if it existed, to which he could reply in
4722 writing. (Defense counsel quotes a portion of PX 14, appointing bishops Hirzostom and Visarion: The Holy Synod of Bishops at its meeting under the above mentioned date rendered this decision: relative to the decision of the Holy Synod of Bishops . . . of May 10, 1963 by which proceedings were initiated against his Grace Bishop Dionisije of Midwestern American Diocese, the Holy Synod of Bishops authorizes their Graces Bishops Hirzostom of Branichevo and Bishop Visarion of Banat to go to the U.S.A. and in accordance with article 67 and 90 of the regulations and procedure for ecclesiastical courts of the Serbian Orthodox Church (penal code) to conduct proceedings, to investigate the matter, and to conduct necessary hearings of the accused and witnesses, and to conduct a gathering of evidence, and to submit a report, with all relevant documents concerning their findings, to the Holy Synod of Bishops for further competent proceedings."

4726 Once a Diocesan Bishop, the Synod or the Assembly receive a complaint against one of their clergy they are obliged by article 67 of the penal code to investigate whether the transgression is of such character that they can solve it in their own particular jurisdiction or whether they will give it to a particular person who will investigate the whole case and bring a report of his findings. If the case in question is one where the Diocesan Bishop appoints a special person to investigate, then that person calls the accused, the witnesses and all other persons who may add to the understanding of the case in the locality where the Court is, or if that is impossible, then the investigator will go to the place where the accused and the witnesses live and perform the hearing of the accused and all of the witnesses. When this is accomplished, the investigator will return the whole case with all the documents to the organ which sent to him to perform the investigation. That organ should then decide whether the penalty should be a disciplinary one and then pronounce the judgment in its own jurisdiction or that the whole case, with all the documents, should be given to the Court and appoint a person who will be the church prosecutor if that person is not a permanent officer.

4727 Under article 67 the investigator calls the accused and witnesses and sets up a date, place and time when they have to appear in front of him for a hearing. Then he calls the witnesses one by one. He asks each witness his name and surname, age, place where he lives, reminds him to speak the truth because his testimony will be sworn to. The witness will explain

the whole case, what he saw, heard or experienced in connection with the accused and when he finishes his testimony the accused can then, through the investigator, request explanation about certain points, certain things. After that the investigator will decide whether he accepts the remarks of the accused, that the hearing of the witness, the testimony of the witness should be supplanted, changed, or stand. When the witness finishes his testimony the investigator will read to him what is written about his testimony and then call on him to come and sign the testimony. Then the witness will be sworn. If there are more witnesses, the oath is given to all witnesses together.

4731 After the witnesses complete their answers with regard to the accusation they sign their own testimony and the investigator calls the accused to speak in his own behalf if he has something to say. Investigator records the testimony of the accused and the accused signs his statement. When this is finished the investigator, with the cross and holy gospel, gives the oath to the witnesses regarding their testimony. With that the minutes are finished and signed by the investigator and the secretary who made the minutes.

4732 Unsigned complaints cannot even be given to an investigator. Article 65 of the penal code requires that they be rejected by the organ to whom the complaints are addressed. This article states "Unsigned complaints in no way could be taken into consideration or procedure."

4733 (Defense counsel hands the witness PX 17A) The constitution of the Serbian Orthodox Church and the penal code have no provision or place which gives the right or the authority to the investigator or an investigating commission to do anything other than

conduct the hearing of the accused and the witnesses and collect proofs. The investigator has no right

4734 to issue any proclamation or to call the clergy and the people to partition themselves from the accused and not to obey an order of the accused. The investigator has no right to decide whether somebody is guilty or not but that right belongs either to the organ that sent him to perform the investigation or to the court which should decide about the guilt of the accused.

4735 Article 68 of the penal code tells the investigator what to do with the report.

4736 There is a provision of the penal code which forbids one cleric to insult or scandalize another cleric regardless of whether he does it on his own with that priest or whether he does it openly or publicly.

4737 This is article 39 of the penal code. Details are described in articles 40, 41, 42 and 43.

Article 216.4 of the constitution of the Serbian Orthodox Church provides for the removal of a bishop from his diocese. Article 55 of the penal code also refers to this. I know of no case where a bishop was removed from a diocese in the Serbian Orthodox Church without his consent or agreement. The constitution of the Serbian Orthodox Church provides that a bishop or clergyman can be transferred into another diocese or parish only after a judgment of the church court. Article 217 so provides. A Bishop or clergyman can be transferred to another place of service or diocese upon his own request or with his permission. Article 217 of the constitution, as well

4739 as articles 216.4 of the constitution and 55.4 of the penal code speak about the removal of a diocesan bish-

4740 op. Article 111 of the constitution of the Serbian Orthodox Church states that a diocesan bishop can

be removed from the diocese by the Holy Assembly of Bishops only upon a canonical verdict. The Synod has to judge such a bishop as the court of the first instance for canonical offenses to find him guilty and then the Holy Assembly of Bishops can take the necessary steps to remove him from his diocese. Before that is done, a decision cannot be brought by the Holy Assembly of Bishops or the Holy Synod.

4742 (Offer of proof begins.) I have an opinion whether
4744 or not the action of the assembly as reflected by PX 8A deposing Bishop Dionisije from his duties as a diocesan bishop was a punishment under the constitution and penal code of the Serbian Orthodox Church. The investigating commission was irregularly sent to the Holy Assembly because the Holy Assembly did not send this commission to the United States. Commission was sent by the Synod and all of its recommendations should have been returned to the Synod and after the Synod made its judgment, the case would go to the Holy Assembly of Bishops to be resolved in the second instance. Only then if the bishop is punished for canonical offenses could the Holy Assembly discharge the Bishop from his Diocese. This is foreseen in article 216 of the constitution of the Serbian Orthodox Church in article 55.6 of the penal code. (Offer of proof is closed and the court refuses the offer.)

4746 In July 1963 articles 218 of the constitution and the third paragraph of article 67 of the penal code were in force and effect. (Defense counsel reads article 218 of the constitution "No one can be punished with any church penalty without prior hearing". Counsel also reads a portion of article 67 of the penal code "No one can be punished with any

church penalty without prior hearing." Counsel also reads a portion of article 67 of the penal code "No one can be punished by any church punishment without prior hearing."

4747 Article 69 of the penal code dictates the contents
4749 of the indictment. Article 69.2 states that the indictment has to cite which court has jurisdiction of the
4750 case. The portion of PX 16A, the indictment, on the first page under "Authorize the Holy Bishops Synod" is the paragraph which I have referred to that is required by article 69.2 of the penal code. (De-
4752 fense counsel reads a portion of the indictment: "I am finding: that the Holy Bishops Synod of the Serbian Orthodox Church in accordance with article 70.35b of by-laws of the Serbian Orthodox Church and article 63, rules and regulations for the ecclesiastical court of the Serbian Orthodox Church, is authorized to judge in first instance in case of guiltiness of Bishop Dionisije Milivojevich.")

4753 All offenses that are brought about in complaints may be charged in the indictment. Article 69.3 and 4
4754 states that each criminal offense has to be described, citing the time, manner of commission, explanation of the criminal offense with the naming of the kind of offense as these criminal offenses are classified in article 114 of the constitution of the Serbian Orthodox Church. Offenses are also described in articles
4755 8 through 55 of the penal code. A bishop cannot be accused of any criminal offense which is not named in article 214 of the constitution or articles 8 to 55 of the penal code. My statement is based upon article 9, 214, 216 and 268 of the constitution and article 92 of the penal code. (Counsel quotes article 9 of
4756 the constitution "Church offenses and penalties are those which are prescribed by this constitution ac-

cording to the canons of the Orthodox Church." And article 268: "When this constitution becomes effective, all laws, directives and other regulations cease to be valid which are contrary to this consti-
4757 tution." Article 69.5 states that the indictment is obligated to precisely cite the proofs upon which it is based but does not speak anything about giving the proofs to the accused together with the indictment because it is considered that the accused must have been acquainted and received these documents, proofs, to answer them in writing as is provided in article 67, last paragraph. It is contemplated that the ac-
4758 cused would have received a copy of the complaint against him or a confrontation with the witnesses at the hearing held by the investigating committee before the indictment was drafted.

5759 A complaint by a person who is dead would be considered by the Court and included in the indictment under the condition that witnesses were cited for the statements and the accusation against the accused
4761 person. It is self evident that the witness has to testify about facts which he himself has seen, experienced or gained knowledge in any other manner within his senses. The personal opinions of a witness about a certain event cannot be taken into evidence. (The court accepts the priest's previous two sentences as an offer of proof which is refused) (Counsel
4762 adds to the offer of proof as follows). When I spoke about the subjects of the testimony of witnesses I based my statements on the principle of the law and the judicial practice that the subject of testimony of any person can only be what he saw or in any manner through his own experience. (The court re-
4763 fuses the offer of proof and it is closed) (Discussion
4769- between court and counsel relative to production of
4794 certain documents.)

4794 The position of administrator of a diocese is mentioned in article 12 of the constitution of the Serbian Orthodox Church. (Beginning of offer of proof)
4797 When a diocese is governed by an administrator no reorganization may take place. No important changes can be initiated according to article 12 (sic.) during administration of a diocese. A vacant diocese is governed by an administrator appointed by the Holy Synod. Article 112 reads "Vacant diocese is governed by an administrator who is appointed by Holy Synod. As long as the Bishop's seat is vacant, there cannot be exercised any diocesan function which would effect diocesan organization nor can there be made any important changes in the matters which were initiated during the administration of the former diocesan bishop." (Offer of proof closed and refused)

4799 Article 71 of the penal code indicates the action the Holy Synod must take when acting as a court and arriving at its judgment or decision. (Counsel reads article 71 of penal code: "Upon receiving a reply to the indictment or should the court establish that it was not submitted within the legally appointed time, the court shall in a proper constituted meeting —always in secret session—study all documents and on the basis thereof, voting first in transgression and then on the punishment, decree the judgment. The punishment shall be proper and the judgment decree written up by a member of the court when the presiding officer may so designate.") Article 219 of the constitution requires the subject of canonical offenses have to be considered urgent and the church court is obliged to decide upon it within a year. (Counsel
4803- reads article 219: "Matters of this kind must be con-
4805 sidered as urgent and a church court is obligated to

make a decision within the period of one year.")
4806- (Discussion between counsel, the Court, two interpre-
4820 ters and the witness to establish that the phrase in the penal code translated "disciplinary measures" may also be translated "disciplinary punishment" or "disciplinary penalty". This phrase is used in articles 44, 56, 46, 38 and 60.)

4820 I find the expression "private claim" in articles 43, 44 and 61 of the penal code. A complaint against a clergyman can be submitted by a layman or anyone else or the church prosecutor. When a layman is bringing a complaint against a clergyman it is termed a "private complaint". If the complaint is submitted by the church prosecutor then it is not called a private complaint but a complaint in accordance with official
4822- duty. I am referring to article 61 of the penal code.
4824 (Beginning of offer of proof) The time limit for submitting a private complaint is three months from the day when somebody received knowledge about the criminal offense and the one who committed it. Article 61 of the penal code, point 2 refers to this. A judicial
4826 authority may not accept a private complaint if it is made to him more than three months after the date
4827 of the transgression. (The court refuses the offer of proof)

During the years 1963 and 64 I had occasion to become acquainted with the proceedings against Bishop Dionisije. The procedure began on May 10, 1963
4828 before the Assembly and the Synod. I first became aware of the proceedings on May 10, 1963. I was employed in the Synod and the Assembly sent the
4831 whole case to the Synod. After the investigating committee went to the United States all documents covering the offenses of Bishop Dionisije were given to the Holy Synod. The Synod appointed the church prosecutor, Bishop Vasilije. At that time I received

all the documents which arrived from the United States to look through them, analyze them, put them together in chronological order, make a list of the contents, bind them together, put the seal on them and give them to a person who took them to Bishop Vasilije.

The next occasion that I had contact with the proceedings was December 10, 1963. I was called by
4832 the Holy Synod to give an opinion as an expert about the requests of Bishop Dionisije for a copy of all accusations and for an extension of time to answer the indictment. I was present at that Synod meeting which was held in the Patriarchate. Patriarch German, members of the Holy Synod, Bishop Emilijan, Bishop Valerijan, Bishop Vladislav, and Bishop Pavle were present. Also present was the professor of the theological faculty, Dr. Gardasevich, myself and a secretary, Very Reverend Mladenovich. The
4833 professor and I were called to give an expert opinion
4834 concerning the offenses of Bishop Dionisije. There was another professor invited to attend but he did not show up. Bishop Visarion also attended the December 10 meeting.

There are minutes of the December 10, 1963 meeting and the names of the persons present and the
4850 conversation are recorded in them. Patriarch German opened the meeting and said to Professor Gardasevich and I that we are invited to give our expert opinion on the subject of Bishop Dionisije. The first question His Holiness said is as to which regulations we should follow in connection with Bishop Dionisije. I said that it is difficult now to correct the method used because the indictment of the church prosecutors submitted in October used the constitution of the Serbian Orthodox Church, penal code and the holy canons.

The accused has already received the indictment and requested that he receive copies of all complaints and proofs. At this time Bishop Visarion mixed into the conversation and his participation was stopped by the oldest member of the Synod, Bishop Emilijan who told him that experts had been invited to give their opinion and that Bishop Visarion was not invited and he should not mix in the matter. Bishop
4852 Visarion then left the meeting because he was not a member of the Synod and had not been invited to
4853 be present at the meeting. Dr. Gardasevich and I continued to speak and when the conversation on the first question was ended the professor left. The second question was whether Bishop Dionisije should be given copies of the proofs. This question in discussion lasted the rest of the afternoon until 7:30 in the
4854 evening. I expressed my opinion that the written complaints should be given to Bishop Dionisije. The
4855 Patriarch did not agree with this. I cited text and read to the members the practice in previous years. There had never been a case when somebody was not given the right to analyze the documents and take copies of them.

4856 Patriarch German did not agree with my remarks and I answered to him that I was not there for politics but only to give my expert opinion on how I had been working on these matters and how it had been done for 30 years. Point 3, the request for an extension of time, was then discussed. A Bishop said that the
4857 prayer of Bishop Dionisije should be accepted in as much to give him one month more time, not six months. Patriarch German suggested the meeting be postponed to tomorrow to decide the question of sending copies of written proofs. Bishop Emilijan did not agree and stated that he had to return to his

diocese. At that moment a servant of His Holiness came into the room and said that there was a call from the Commission for Religious affairs and Father Mladenovich answered the phone. When he came back he said that His Holiness and members of the Synod were called by the President of the Commission for Religious Affairs for a meeting and
4858 dinner. Then news was brought that Metropolitan Arsenije had died. Bishop said they could not go to the meeting and dinner with the president of the Commission of Religious Affairs because of the death of Metropolitan Arsenije. After that a decision was reached to reject Bishop Dionisije's request to send him copies of the complaints and proofs.

4861 Following the Synod meeting of December 10, 1963 I next came in contact with proceedings against Bishop Dionisije when Bishop Hrizostom on March 4 brought me the disposition of the judgment by which Bishop Dionisije was defrocked from his episcopal rank. He told me that the assembly had
4862 appointed a committee to compile the judgment. He told me that the Assembly of Bishops had ordered me to add to the judgment the judicial explanations. At that time he handed me the whole case, with the indictment, which I should use during my technical formation of the judgment. I drafted the judgment and took it to a meeting of the Holy Synod where it
4863 was read and accepted. After that it was given to a person who took it to all the dioceses for the signature of the Bishops.

4868 I have an opinion as to whether the alleged transfer of Bishop Dionisije from the American Canadian Diocese to the Middle Western American Diocese was in accordance with the rules and regulations, customs and traditions and constitution and penal code of the

Serbian Orthodox Church. According to the regula-
4869 tions of the constitution of the Serbian Orthodox Church and penal code the Holy Assembly could not transfer Bishop Dionisije to a newly created diocese nor divide the diocese into three newly created dioceses. Transfer, as spoken of in article 216.4 of the constitution cannot be pronounced without a previous hearing of Bishop Dionisije, the conduct of a whole investigating process and a judgment brought by the jurisdictional organ, in this case the Holy Synod. This is spelled out in article 217 of the constitution
4870 of the Serbian Orthodox Church. Only after the Synod had collected evidence, proofs, conducted an investigation, and brought a judgment which has to be approved by the Holy Assembly of Bishops could Bishop Dionisije be transferred to another diocese.

I have an opinion whether the deposition of Bishop Dionisije in July 1963 was conducted in accordance with the rules, regulations, customs, traditions, constitution and penal code of the Serbian Orthodox Church. The Holy Assembly could not depose Bishop Dionisije from his diocese before the Holy Synod brought a final judgment that his transgressions were proven and that he is to be punished by deposition from his diocese. It is the general practice in the
4871 Serbian Orthodox Church that a person cannot be removed from his position until the investigation and judgment are complete. Punishment by deposition from a diocese or parish is not a light punishment, as is reprimand, warning or penance for 15 days, but this is a punishment which can be pronounced only by the court in accordance with article 217 of the constitution of the Serbian Orthodox Church. The jurisdictional court is provided by article 70.35 of the constitution.

4872 I have an opinion whether the alleged defrockment of Bishop Dionisije by the assembly in March, 1964

was in accordance with the rules, regulations, customs, traditions, constitution and penal code of the Serbian Orthodox Church. The Holy Assembly of Bishops acted as Court of the first instance and it was not entitled to do so according to article 70.37b. The court of the first instance is the Holy Synod of Bishops. Because this procedure violated the provisions of the constitution of the Serbian Orthodox Church Bishop Dionisije was not given the opportunity to appeal this judgment. There is no court of the third
4873 instance. Until the 17th century there existed a procedure called "Inquisitional Procedure" which adjudged only in one instance. After the 17th century and in the Serbian Church from the time it was organized, the procedure was always in two stages, one court adjudged in the first instance and the second court judged in the second and last instance.
4874 These two steps are provided by the constitution of the Serbian Orthodox Church and in the case of judging bishops for canonical offenses the Holy Synod should judge as court of the first instance and the Holy Assembly as court of the second instance. The Holy Assembly has returned to the olden times of the "Inquisitional Procedure" in this case.

I have an opinion whether the investigative procedures before trial by the Assembly of Bishops conducted in the case of Bishop Dionisije were conducted in accordance with the rules, regulations, practices, customs, constitution and penal code of the Serbian
4875 Orthodox Church. The procedural process for the transgressions of Bishop Dionisije was not in conformity with the principles of the law of procedure because the investigative procedure did not complete what it was supposed to complete. The commission was sent to perform the hearing of Bishop Dionisije,

have a hearing of witnesses and collect proofs and it did not complete this task. The submissions were taken as testimony when in fact these complaints had to be proved. The prosecutors appeared in the position of witnesses although they had never heard the witnesses. The testimony was never sworn to. Because of this there was no proof in the case when the judgment was brought. Without a hearing and testimony under oath nobody's testimony can be ac-
4876 cepted as proof. Secondly, Bishop Dionisije did not receive the proofs which the church court has used describing his transgressions and offenses and upon which the judgment was rendered. He was not given the opportunity to answer in writing all these accusations.

The penal code has been in effect since 1961. The practices under the penal code which I have testified were followed from 1961 up until 1965 when I left.
4877 The practices about which I testified were followed prior to 1961. Prior to 1961 there was no penal code but there was a constitution in which canonical offenses were regulated and by which clergymen were judged.

4888 I have examined PX 21A and it is the judgment
4890 which I referred to earlier in my testimony. The penal code, Article 82.5, requires that the judgment be based upon the indictment against the accused.
4891 PX16A is the only indictment that was ever given to me. There were amendments to that indictment. Bishop Vasilije made an oral request wherein he sought that the indictment against Bishop Dionisije be extended for his offenses concerning the holding of the church National Assembly November 14, and 15, 1963. The amendment I have just referred to is
4893 spoken of in the judgment. PX21A it is under VI,

page 10 of the judgment which I have. It is also mentioned under part 8 of the judgment.

4896 I have an opinion as to the legal effect of the failure by the prosecutor to forward to Bishop Dionisije
4897 amendments to the indictment before judgment. When the Holy Synod transmitted to the church court prosecutor the joint report of Bishops Stefan, Firmilian and Gregory of November 25, 1963 concerning the Sabor held November 13, 1963, and that report contains the most serious offense of Bishop Dionisije, the church prosecutor should not have submitted it to the assembly as an amendment to the indictment before he transmitted it to Bishop Dionisije for reply or not to reply. This document could not have been taken into account by the Holy Assembly, even if it were competent to judge Bishop Dionisije in the first instance, because the prosecutor did not proceed in the
4898 prescribed manner. (Counsel reads a portion of Article 82 of the Penal Code: "The Court of the second instance will annul the judgment decree of the Court of the first instance: (5) if the ruling in the judgment is in contradiction with the opinion, or if the opinion is in contradiction with the judicial documents upon which it is based.)

I did examine the complaints and enclosures to the indictment at the time they were sent to the prose-
4901 cutor and after the judgment. PX16A is the indictment to which I referred. The indictment included unsigned complaints and enclosures. It also included newspaper articles. Article 65 of the Penal Code
4902 concerns unsigned complaints. (Counsel quotes Article 65 "Unsigned submission shall not in any case be taken into consideration or process."

I speak the Serbian language. I have studied Latin, Greek, Russian, Czechoslovakian, French and Hebrew,

I do not speak these languages. I did not have a
4903 passport to leave Yugoslavia. I have a document to the effect that the government authorities refused to give me a legal passport so I crossed the border illegally.

Cross Examination.

I have the document to which I just referred in
4904 my possession. (Counsel marks that document PX165. The interpreter translates the letterhead "The Peoples Republic of Serbia, The Peoples Committee for the City of Belgrade, Secretariat for Internal Affairs, Department for the Service of Crossing Borders and for Foreigners.")

4906 The Serbian Orthodox Church is episcopal with a rank of Patriarchate. It is church hierarchal and church self governing. One orthodox church can be in union with other orthodox churches but need not be. There exist exiled orthodox churches, as the Rus-
4907 sian Church in exile which came into existence after the revolution in Russia in 1917. Other churches are the Macedonian Church which has no communion with any canonical orthodox church until recently. Until recently the Bulgarian Orthodox Church was not recognized by the Ecumenical Patriarchate. Here in America there exists some church of a Leontyne which does not have a spiritual or canonical union with the Patriarchate of Moscow. There also exists a Polish church which is recognized directly by the Ecumenical Patriarchate but which the Russians do not recognize. Perhaps there are other churches but I have not particularly concerned myself with that question.

4908 I have studied the history of orthodox churches but I have never concerned myself particularly with that field. This was when I studied at the theological faculty and graduated October 10, 1942. The subjects

there were divided into groups, one group belonging to the scriptures, another group to apostolic historical and legal. We studied and passed examinations in these subjects.

4909 The autocephalous orthodox churches in the world include the Ecumenical Patriarchate of Constantinople, that of Alexandria, of Jerusalem, of Antioch, the Russian, the Serbian, Bulgaria, Macedonia, Polish.
4910 There are some in Czecholovakia and Albania. These are small churches. The Greek Orthodox Church exists but it has the rank of archbishopry and it is in community with the Patriarchate of Constantinople. The Patriarchate of Constantinople give the Greek church a certain autocephalous antonomous status with the rank of archbishopry, not of Patriarchate.

4911 The Russian Orthodox Church in exile is scattered throughout the world. The See of that church depends on which group is involved. The group of Anastasia which came from Yugoslavia is in New York. When I was in France there were three or four groups of Russian churches in exile. None of them recognize the Patriarch of Moscow. There is also Polish church in exile which are called Gregories and there are other
4912 Russian churches of which I do not interest myself. The Russian church in exile, that of Antonia and that of Anastasia and that of Leontyne are autocephalous churches because the Rusians had three or four bishops and any church which has that number of bishops and if the people and clergy wish it, can proclaim themselves autocephalous. The only question posed then is whether other autocephalous churches recognize them but that doesn't bother them in existence and working. There need not be three
4913 or more dioceses. All bishops do not have to have

dioceses. The minimum number of dioceses is nowhere mentioned but the minimum number of bishops
4914 is. The minimum number of bishops was rendered from the year 325, that is the beginning of the 4th Century, until the 9th Century. I am referring to the apostolic canons and the canons of the Ecumenical Council. This minimum is not mentioned in the Constitution or in any code. These apostolic rules and rules of the Councils are accepted by the Serbian Orthodox Church. I was a student of a great Russian canonist who taught canon law.

4915 I have mentioned in the United States a Leontyne
4916 Church. This is a church which is tied to the name of a person. The Serbian Orthodox church is tied to the person of St. Sava. Our church is called the Serbian Orthodox Church of St. Sava. While I was in Belgrade Patriarch German asked the Russian Patriarch to cut all ties with Bishop Dionisije. The Russian Patriarch replied that he agrees to this but asked the Serbian Patriarch to give instructions to cut all canonical ties with all Russian exile churches. I wrote an article about this in a Serbian newspaper.
4917 I was referring to all Russian Churches here in America who do not recognize the Communist authority and Communist Patriarch in Russia. I wrote my article after my arrival in the United States in
4918 December 31, 1965. I wrote the article in 1966 or
4919 1967. I do not have the article here.

4921 Prior to 1963 it wasn't important whether Bishop Dionisije recognized any of the church groups in
4922 exile. Bishop Dionisije was in communion with the Serbian Orthodox Church and if the Serbian Orthodox Church held a unity with those churches then the matter was in order without regard to the stand of Bishop

Dionisije. The Russian Orthodox Church in exile in America, the group of Anastasia and Antonia was helped by the Serbian Orthodox Church after the Russian revolution. Similarly, the Serbian Orthodox Church organized a church in Czechoslovakia and in Hungary and kept that jurisdiction up until 1946 when those churches were taken from the jurisdiction of the Serbian church by the Russian church.

4925 (Begin offer of proof) I do not know whether
4926 Bishop Dionisije recognizes the Russian Orthodox Church headed by Metropolitan Leonty at the present time. I don't know whether the diocese does either. (Offer of proof is refused)

4943 In 1952 I was given the clerical rank of deacon. I
4944 was ordained by Metropolitan Josif as deacon. My highest clerical rank before leaving Yugoslavia was
4951 Proto deacon. In August 1965 I received the rank
4952 priest in Dusildorf, Germany. Bishop Dionisije ordained me. Since that time I have paid allegiance
4958 to him. I do not understand what counsel means when he asks me have I paid allegiance to the Holy As-
4960 sembly of Bishops. I have received no edicts or pronouncements from the Holy Assembly of Bishops and have no need either to acknowledge them or not acknowledge them. Orders and decrees are usually sent through confident jurisdictional channels. My bishop has never transmitted to me any order and called upon me to carry them out. He is not obliged even to do so because the canons forbid communication with a person which came to an authority supported by the state Communist authorities.

4962 The Glaznik is a newspaper and official organ of the Serbian Orthodox Church. The first part of the
4963 section of the Glaznik has official announcements of

the Holy Assembly, Holy Synod, Patriarchal Council, Patriarchal Executive Board, Church Court and in general all church bodies. The second section contains various articles published about theology, cultural
4964 history and philosophy. I was editor of the Glaznik for ten years, 1955 to 1965. PX 166 looks like an issue of the Glaznik. Issues are disseminated in this country.

4965 I was a deacon in the Metropolia of Skoplje. I left
4966 that diocese in 1938 to go to Belgrade. Then I commenced duties as clerk with the diocesan court in Belgrade. I served in that position until 1944. I became a Referent during the time of Patriarch Vikentije. There is a difference between a clerkship and a Referentship. Postition of Referent was established only by the new Constitution of 1947.

Metropolitan Arsenje was secretary of the great church court. He was a priest at the time, not a bishop. He was succeeded by Protopresbyter Licinich; the Constitution no longer provides for a secretary of the court.

The minutes of the deliberations the high church court are signed by the President and all members and by the reverend. They bear a seal and they are sent to the parties. I am the keeper of the seal. The
4969 seal is placed between the signatures of the President and the reverend. The document is sealed after the
4970 President signs it. Father Mladenovich was the supreme secretary. In the Synod there are other secretarial positions. There is also the position of reverent, a position immediately below that of the Su-
4971 preme Secretary. I don't recall when Father Mladenovich became secretary.

4972 I reside at 901 Lake Street, Oak Park, Illinois. I am not now assigned to any parish. My first and

4973 last parish was Bellwood which I left June 1, 1968. I was appointed to another position by Bishop Dion-
4974 isije. I don't know Bishop Dionisije's personal mo-
4976 tives for assigning me to another position. I did not
4977 receive PX 168. I have never seen the original of PX 167. This copy should have a seal. I have never
4978 seen the original or a copy of PX 168. I was accompanied by Vera Milinovich or Mustur, her name before her divorce, when I left Yugoslavia. I don't
4979 know if she was the wife of Dushan Mustur when she left Yugoslavia. Her husband did not leave Yugoslavia with her. I don't know her children. I
4980 did not know that she had children. I knew her for about a year or two before I left Yugoslavia. I went
4983 to Italy, France, Germany, Canada and America.
4984 Vera Mustur accompanied me. The time I left Yugoslavia I was married and had a son 30 and a daughter 26. After my divorce and Vera Mustur's
4985 divorce we got married in a civil ceremony in Chicago. At the time I married her I was a priest ordained by Bishop Dionisije and the parish priest of the congregation in Bellwood.

4990 Proceedings for my defrockment were instituted.
4991 A Dushan Mustur initiated proceedings before the
4992 civil court. I received a Complaint. I was also
4993 charged because I came to the group of Bishop Dionisije. I replied to the complaint and contested the competency of the jurisdiction in Yugoslavia because I was no longer in that diocese. I don't know whether a judgment of defrockment was entered. I have
4994 never received a decree nor an invitation to write anything on it. I could have received the charges in 1968.

Up until 1946 the church courts handled all divorce cases because all marriages were church marriages. From May 8, 1946 the state law regulating marriages was promulgated. That law obligates the entering of marriages before civil organs and divorces before the civil courts. Church marriages are not recognized by the state. I did not attend the December 10, 1963 Synod meeting as Referent.

RIGHT REV. BISHOP DIONISIJE MILIVOJEVICH, testified:

Direct Examination.

My name is Rt. Rev. Bishop Dionisije Milivojevich and I was born July 26, 1898 in Serbia. I finished four years of education in my village and then finished gymnasium in Kragujevac. At that time Serbia was an independent state and later in 1918 it became a part of the Kingdom of Serbs, Kroats and Slovens until 1929 when the state became Yugoslavia. When I was born King Peter I was king. King Peter II is the grandson of Peter I and he is living in exile.

After gymnasium I studied law for three years in the University of Belgrade. Then I transferred to the theological university for four years. Then I took a course for teaching and I became a preparing professor at the gymnasium at Kragujevac for two years. I taught religion. Then my wife died and I resigned. I taught at a teachers school and a gymnasium in 1925 and 1926. My students were studying to be teachers in the public schools. I taught religion, geography, philosophy, logic and methodics. I was married at the end of 1924. I had just become a professor at the gymnasium. My wife

became sick and she died after six months of tuberculosis. I renounced my teaching position and went to Athens to become a monk. I went to Monestary Sava, where I received my monastic name of Dionisije. I took three vows to become a monk. I gave vows not to get married again, to obey the orders of the church and holy canons and a third vow of poverty. I was released from the vow of poverty when I became a bishop. I stayed in Mount Athens a couple of months and then returned to the Kingdom of Serbs, Kroats and Slovens in 1927. I was sick of tuberculosis at that time. I went to a monastery recommended by Bishop Nicholi and became Abbott of the Monastery of Dracha for two years. I supervised the monastery and the monks. I had 15 monks and novices. In 1929 Patriarch Demetrius called me to be professor at a monks school in the Monastery of Rakovica near Belgrade. For two years I supervised the monks and gave them lessons in religion and canon law. In 1931 I was selected by the Patriarch to go to Constantinople to the academy of Halko. I learned the Greek language and made a study of the Greek Orthodox Church. I also studied Greek philosophy and history. I studied apologetics, the science of defending Christian teaching from Roman philosophy. After this study I went to Yugoslavia where I became professor of the seminary at Sremski Krlovic. I was professor for two years and taught apologetics, philosophy, religion, canon law and at that time I gave my examination for a masters degree from Belgrade University. My thesis was the Anglican Church under the rule of Henry VIII. A masters degree covered philosophy, religion and so on. The examination is given before a state commission for anyone who wants to be a professor.

Then Patriarch Varnavas sent me in 1933 to be director of the Monastic School in the Monastery of Visoki Dechani where I stayed for five years. I governed the school, had 90 students and taught religion, logic, philosophy, apologetics, Bible stories, and canon law. In 1938 I was elected Vicar Bishop.

The examination I took was written and oral and lasted one week. It was a state rule for the examination for professors. This examination covered general history and history of the Serbian people, philosophy, apologetics, political lessons and so on. I also answered questions regarding canon law. In 1933 when I passed this examination I received recognition as a regular professor in every school in Yugoslavia except the University.

When I became Vicar Bishop I was Patriarch Gabriel's assistant and I had no diocese. I was Vicar Bishop for two years and in the spring of 1940 was appointed by the Royal Deputies to be Bishop of America and Canada. King Peter II was fifteen or sixteen years old and the Royal Deputies made the appointment. I was approved by the Royal Deputies and had a decree from them appointing me Vicar of Patriarch Gabriel. Confirmation of election of a bishop or patriarch belonged to the king so the Royal Deputies had to confirm and issue a decree that I was a bishop. DX 29 and 29A is the document I am referring to. It came from the government. The document is signed by Prince Paul who is related to King Peter. Under the Constitution the Royal Deputies ruled until King Peter became of age. DX 29 is a copy of the document that I received confirming my appointment as a bishop of the Serbian Orthodox Church. I received no other documents indicating that

I had been appointed a bishop. I would have to look in my archives to see if I still have the original. The original might be in Belgrade. I recall seeing the original but I will have to look to see if I have it.

I came to the United States April 15, 1940 bringing with me a secretary, Rev. Firmilian, Rev. Dazgich, and Rev. Balach. A layman who is presently a priest in Detroit also accompanied me. Nicholi Dazgich is the same man who testified in this case and served as an interpreter. Demetri Balach is Bishop of Australia at the present time. I first met Bishop Firmilian in Belgrade. I met him in the Patriarchate when he came from Montenegro from the seminary where he had been released as professor by Patriarch Gabriel. At that time I was Vicar Bishop to the Patriarch. Metropolitan Joseph was present at the time I had a conversation with Bishop Firmilian. I told Firmilian that Patriarch Gabriel would not accept him in his diocese and Metropolitan Joseph said he would accept him in his diocese. I saw the documents presented to Patriarch Gabriel by the Ecclesiastical Court and I know of my own personal knowledge the reasons why Firmilian was released from the seminary in Montenegro. I presided over the Ecclesiastical Court at that time. Bishop Firmilian was involved in a court proceeding. An employee of the National Bank of Yugoslavia came to the court to present charges against his wife and pictures and letters. These pictures showed his wife and Rev. Firmilian together somewhere in the Adriatic Sea and letters showed that he promised to marry her if she left her husband and two children. I took these to Patriarch Gabriel and he looked at the documents and sent a telegram to the supervisor of the theologi-

cal seminary in Montenegro to release Firmilian immediately and told me to proceed before the Ecclesiastical Court.

5133 I traveled by trains and by boat. I took a train from Belgrade to Venice, Italy. Rev. Firmilian did not get on the train with me at Belgrade. I had a
5134 conversation with Firmilian and Metropolitan Joseph in either my office or Metropolitan Joseph's office. The subject was how I could have a secretary for the
5135 diocese. Metropolitan Joseph saw Patriarch Gabriel and got his permission for me to take Firmilian as my secretary to the United States. I had a conversation with Firmilian about leaving. The woman who lost her husband and children was chasing him all around and he was afraid to board the train at
5136 Belgrade. Firmilian said he was afraid of this woman who lost her marriage on account of him and the Ecclesiastical Court and he said he would board
5139 at Scarapazova an hour and a half from Belgrade. I did board this train several days after my con-
5140 versation with Firmilian. Only Mr. Mijatovich boarded the train with me in Belgrade. I had seen
5141 this woman two or three times in my office. When
5143 Bishop Firmilian boarded the train I was in my cuber, the second class on the train. I saw him coming from the station and I saw the woman get off the train and say "Do you mean to go without me." She bent her hands around his neck and pulled him to her between her and her brother-in-law in her com-
5144 partment. I started looking for a policeman on the
5145 train. In Bishop Firmilian's presence I spoke with this woman and told her that I was on an official mission to America. She said that Firmilian had promised to be with her and he would not go anywhere without her. Firmilian did not say anything.

Then we found a policeman and he searched the man,
5146 the brother-in-law and found a gun in his pocket. The policeman put the man off the train at the next station and the woman stayed. I recognized this woman because I had seen her in Belgrade in my
5147 office looking for Stanko, Rev. Firmilian. This is the woman whose husband sued her for divorce and she
5148 lost the case. The letters were written to her in
5149 Bishop Firmilian's handwriting. The decision of the Ecclesiastical Court was that the lady lost the case and that Rev. Firmilian caused her infidelity to her
5153 husband. There were children. (Offer of proof) I recall what Bishop Firmilian said to this woman in the letters that I saw. He said that he would marry her because he was a widower. (Offer is closed and refused)

5154 I got a conductor who took Firmilian to another room and then put the lady off the train. I showed him my diplomatic passport. The woman stated that
5156 she would find him anywhere he went. PX 28 is the
5158 diplomatic passport that I had. (Court states that the incident concerning Bishop Firmilian in 1939 is so remote in time that it lacks probative value and therefore the Court strikes the entire testimony involving the wife and the man and the rest of the
5159 incident. Defense counsel requests that testimony remain as an offer of proof.)

5162 The court refuses the offer of proof.

In 1915 and '16 I served as a volunteer in the Serbian Army until I was imprisoned in a German
5163 camp. I was a private. I was shot through the legs with a dum-dum bullet.

I came to the United States April 15, 1940. After landing in New York I went to Washington to appear

before the Ambassador of our country. I remember coming to Chicago and holding service in the church on Schiller Street. There was a Diocesan Council meeting in the small hall of our church on Schiller Street. The meeting took place about a month after I came to the United States.

DX 30A is minutes of the first convention of the Serbian Orthodox priests and people in America in 1913. I found this book in the archives of the Serbian Eastern Orthodox Diocese. It has been under my supervision since I became bishop in 1940. PX 30 is a true and correct translation of PX 30A, the Serbian minutes. The entire minutes of the meeting have been translated.

PX 31A is the minutes of the North American-Serbian Orthodox priests assembly held in Chicago October 5, 1960 which were produced from our archives at counsel's request. We have an archives where all the documents in the diocese are kept. It is located in our monastery under my supervision. Since April 15, 1940 I have been the keeper of those archives. DX 31 is a true and correct English translation of 31A. I obtained DX 32A from the archives. DX 32 is a true and correct English translation.

DX 33A, 1917 appointment by Russian Bishop Alexander of Father Mardary is dated October 23, 1917. It is in Russian and Serbian. I read and speak Russian, Greek fluently and a little bit of French and German. The translation is correct. I found DX 34A in the archives. 34 is a correct translation. I found DX 35A in the archives of the diocese. 35 is a correct translation.

DX 36A was in the archives and 36 is a true and correct translation. I found DX 38A in the archives

and 38 is a correct translation. 38A is in Russian. I found DX 39A in the archives and 39 is a true and correct translation. DX 40A was in the archives and it is in English. DX 41A, dated April 9, 1924 was found in the archives and DX 41 is a true and correct English translation.

DX 29B is the original confirmation of my election of Vicar Bishop. 29C is a true and correct English translation. DX 48A is the original official paper of the Serbian Orthodox Church dated January 18, 1940. DX 48 is a true and correct English translation. DX 42A is a document found in the archives and 42 is a true and correct translation. DX 43A was found in the archives and 43 is a true and correct English translation. DX 44A was in the archives and 44 is a correct English translation. DX 45 is a true and correct English translation of DX 45B a copy of the Serbian Church organ of the Serbian Eastern Orthodox Diocese of America, pages 3 and 4. DX 46 is an English translation of DX 46A the document found among the archives of the diocese. DX 47 is an English translation of DX 47A, minutes of the Diocesan Council meeting June 5, 1927.

DX 49A is a letter by Archimandrite Mardary calling for an assembly in September 1927. He was a bishop then. DX 51 is a true and correct translation of DX 51A. I found DX 37A among the archives of the diocese. It is the minutes of the priests conference February 21, 1923. DX 37 is a correct English translation. DX 50 was found in the archives and it is an English translation of DX 50A.

DX 52A is the reply of the Assembly approving the Constitution of the diocese and DX 52 is a true and correct English translation. I found DX 53A in the archives and 53 is a true and correct translation.

I found DX 54A in the archives and 54 is an English translation. DX 55 was published by the Serbian Eastern Orthodox Diocese for the United States of America and Canada in 1953 when I was the bishop. It was prepared under my direction and supervision by a committee which included Bishop Firmilian, Rev. Burkich and Rev. Balach. The book was prepared by the editorial committee from documents of the diocese and documents from parishes in the diocese.

Cross Examination.

I became a priest in 1926. I was selected by the Brotherhood of the Monastery of Hilenvarion in Mount Athnos and they sent me to Bishop Nicholi to ordain me as deacon and as priest. Bishop Nicholi was a bishop of the Serbian Orthodox Church. Bishop Nicholi was elected by the Holy Bishops Synod and confirmed by King Alexander of the government of the Kingdom and Serbs Slovenes and Kroats. This election was by the Holy Bishops Assembly and confirmation by the government. When appointed a bishop I did not receive a grammata by the Assembly or the Synod. I was elected a Vicar Bishop in September or November 1938. Article 100 of the 1931 Serbian Orthodox Church Constitution provides that the Patriarch issues a grammata signed by the members of the Holy Synod to newly elected bishops. I did not receive a grammata from the Patriarch of the Holy Synod; I received a grammata from the government of Yugoslavia.

When I first arrived in America I found DX 30A in the archives. At that time it had the note that pages 17 through 38 were missing. I don't know where the

pages are. The reference "they are lost" refers to pages which are missing and I do not know where to find them. I don't know who prepared the translation to DX 38. I was personally acquainted with several of the people mentioned on page 1 of DX 38. All of the laymen therein mentioned are dead. Pages 17 to 38 are blank pages. Something is missing in the sense that the pages are blank. I believe the minutes are true and accurate. The persons listed on page 3 of DX 31 are all dead. I wasn't in America when the minutes were prepared. Bishop Alexander of the Russian Church prepared DX 33A. I spoke with the Russian bishops in New York and they told me that Bishop Alexander prepared it. Mr. Charles Cook prepared the English translation in 1942 or '43. I directed him to underline the portions which are underlined. The secretary of the Ecclesiastical Court prepared DX 34. He prepared DX 34A and 34. He prepared the original in March 5, 1923. DX 34 is either the original document or a photostated copy that I found in the archives. The reference number 7 refers to the book kept by the secretary, Rev. Danilo. DX 35A has the number 1 on it. DX 34 is part of a series of numbers adopted by the Ecclesiastical Court. DX 35 uses a number used by Bishop Mardary. I have a book in the archives that contains a series of letters or reports using numbers. DX 36A is in the same condition as when I discovered it in the archives. The translation was prepared by me and my teacher, Mr. Cook, from Bradley School, in 1942 or 1943. DX 37 is a translation of the longhand portion of DX 37A.

When I came to the United States some of the clerics who are listed on DX 37 were deceased. They are all deceased now. The last three pages of DX 37A

are in the same condition now as when I found them in the archives. The translation was made by my teacher and I in 1942 or '43. The translation to DX
5288 38A was made by my teacher and I in '42 or '43. My teacher died in 1956 or '57. The same is true of
5289 DX 39.

Direct Examination.

5310 I arrived in the United States in April 15, 1940. I was confirmed as the bishop on January 18, 1940 as
5313 indicated in DX 48A. Article 99 of the Serbian Orthodox Church Constitution is referred to in this
5314 article about my confirmation. Article 99 says election of Vicar and Diocesan Bishops is confirmed by the King's Decree upon recommendation of the minister of justice. I do not know where the original
5324 to DX 29 is. I only received this copy.

5332 Exhibit 29A is something I received in January of 1940 and submitted it in 1944 for confirmation of the consul general of the Kingdom of Yugoslavia
5333 in Chicago. I never had the original of this document
5334 in my possession. This document is our grammata given by the government because the Holy Synod did not give a grammata at that time. I was ap-
5338 pointed a Vicar Bishop to the Patriarch in 1938 and, between that time and April of 1940 when I left Belgrade to come to the United States, I was at the Patriarchal Palace where my duties required me to remain. As Vicar Bishop to the Patriarch I performed duties he prescribed, mostly to supervise the Ecclesiastical Court and maintain discipline among the priests or over the Archbishopric of Belgrade
5339 and Karlovci. I was not stationed at the Patriarchal Palace prior to August of 1938, but was at the monastery near the Albanian border. During the time that

I was at the Patriarchal Palace, a period of about a year and a half, I was aware of the rule which permitted only bishops of the Serbian Orthodox Church to have access to the original documents contained in the archives at the Patriarchal Palace. The Holy
5340 Synod and the Bishops Assembly were at all times obliged to give information and transcripts of minutes of their meetings to the government. Priests and clerics in the place did not have access to these
5341 documents. Prior to leaving for the United States I familiarized myself with the diocese here through
5342 an examination of the file in the archives of the Holy
5344 Synod. In the course of reviewing documents in Bel-
5346 grade I found complaints with reference to my coming to this country as bishop. After I arrived in this country, I called the Diocesan Council meeting to acquaint myself with the persons with whom I would have to work. I met with the ambassador in Washington and the Consul General in Chicago and all officials of the Kingdom of Yugoslavia. We first lived
5347 in Chicago and at that time only a monk was in residence during the summer in Libertyville. During my first year I made an examination of the records of
5348 the diocese. I studied English as I did not speak it when I arrived here and part of my lesson was to
5351 translate documents in the archives. The previous bishop, Bishop Damaskin, left approximately a year before I arrived. Prior to Bishop Damaskin an ad-
5354 ministrator ran the diocese. DX 55A is an article
5358 entitled "Serbian Immigrants" which I wrote. Concerning immigration to this country after World War II, I was president of the committee for our immigration Serbs and I sent a circular to all of our priests telling them to bring as many as they could from the

5359 different prison camps. In all we brought around 20,000 people. I wrote the article marked DX 55 which is a history of the diocese from the beginning entitled "Thirty Years since the founding of St. Sava Monastery and 60 years from the start of the Serbian
5363 Orthodox Church in America."

VERBATIM TESTIMONY

[5363] Q. From your study of the history of the Serbian Church in the United States, can you tell us when the first church was erected and where it was erected in this country?

[5364] A. Yes. In Jackson, California in 1894.

Q. And was that just a parish at that time?

A. They had lots of newer surrounds around over there, there are many gold mines where the workers are and so on. Were lots of people.

Q. And was a church organized in Jackson, California at that time?

A. Built and organized.

Q. And was there a Serbian Priest of that parish there at that time?

A. Was.

Q. Do you recall who that was?

A. What?

Q. Do you recall who that was?

A. I think was Sabastian Dabovich.

Q. At that same time, in and/or around 1894, were there any other Serbian parishes or Serbian churches being organized in the United States?

A. They were but few years later in 19—1895 was organized that in McKeesport, Pennsylvania.

Q. Do you recall what the name of that parish was?

A. St. Sava, too, and that was dedicated to Jackson and this in Pennsylvania St. Sava, too.

[5365] Q. Was there at that time any connection between the Serbian parishes that were being organized in this country and the Serbian Patriarch in what was then the Kingdom of Slaves in Serbian—

Mr. Crown: Objection. I don't think this witness has been qualified to answer that question.

Mr. Holmquist: Just a minute.

The Court: Overruled. I believe he is an expert.

The Witness: Those first settlers came from Austria, Hungary.

By Mr. Holmquist:

Q. I don't think you understood my question. You say the first settlers to this country came from Austria?

A. Come from Austria so then they were connected with the Bishops of—Serbian Bishops of—in Austria and Hungary, not with Belgrade.

Q. When these parishes were first being organized in this country in 1890—

A. 1894.

Q, —under whose jurisdiction in this country did they align themselves?

A. They came under the Russian jurisdiction, under the jurisdiction of the Russian Church.

[5366] Q. Tell us a little bit about the history of that. How did that come about?

A. Russian Church in America was older than any other orthodox church of America, older than Greek, and Serbia and Serbian and so on and they came and the Aleutians and from Alaska from over there came down to the America so then they spread through America Continent from over there and from 700, from the time of Peter the Great, Emperor, they

started to settle in the Alaska and Aleutian Islands and came down to Canada, so in that case she start to build the churches. Their priests arrived and build churches and the first settlers since the rights is the same, Serbian and Russian, same Slavic language, they come together, they came together and they came, they came, under the Russian jurisdiction. Very easy.

Q. Was there contact at that time between the Russian parishes in the United States and Canada and the Russian Patriarch in Moscow?

A. Was. Was.

Q. There was?

A. Was. At that time they didn't have a Patriarch in Moscow, they had a Holy Synod. They had Holy Synod. But was connections.

ABSTRACTED TESTIMONY RESUMED

I purchased Shadelands in 1950. From my study of history and my knowledge of this diocese I can
5364 state that the first Serbian Orthodox Church was erected in this country in Jackson, California in 1894. The church was built and organized and there was a Serbian priest there who was I believe Sabastian Dabovich. At this time there were a few other Serbian parishes being organized and in 1895 one was organized in McKeesport, Pennsylvania. The
5365 first settlers that came to this country and populated those parishes came from Austria and Hungary and were connected with bishops in Austria and Hungary and not with Belgrade. Those original parishes organized in the 1890's were under the jurisdiction of the Russian Church. The Russian Church in Ameri-
5366 ca is older than any Orthodox Church here. Since Orthodox rites are the same, members of other

churches in this country naturally came together under the jurisdiction of the Russian Church. There were some connections with the Russian Church in
5367 Moscow and those in this country. There were no connections however at that time between parishes, Serbian parishes which were being organized and the Serbian Church in Serbia. Serbian parishes in this country remained under Russian jurisdiction until the first world war. DX 30 purports to be the minutes of the first convention of Serbian Orthodox priests and people in America dated 1913. That meet-
5368 ing took place in Chicago but since most of these priests also came from Hungary and thought that Serbia would be free after the Balkan Wars, the Serbian Metropolitan Demotrios was afraid to accept all of them. At the 1913 Convention of the Serbian Orthodox Priests and People in America no action was taken with reference to bringing the parishes in the United States under the jurisdiction of the Serbian Church in Serbia because World War I had
5370 started and Hungary had attacked Serbia. The first move to disassociate the American Serbian Churches from the Russian jurisdiction and come under the Serbian Church in Serbia occurred in 1917 when Archimandrite Mardary was sent to establish a diocese. The war hadn't ended yet and conventions and meetings were held and when the Rusians fell under communism he had to organize a completely
5373 new church. The meeting described in DX 31 of the Serbian Orthodox priest's assembly held on October 5, 1916 in Chicago was not a movement to disassociate the Serbian Church from the Russian Church but purely for the organizational purposes of the
5374 Serbian Church. There was no patriarch of the

Serbian Orthodox Church in 1916 or '17 but there were many metropolitans. There was no Belgrade Patriarch as we know it today. DX 32 from the
5375 office of the Holy Governing Synod dated July 6, 1917 is to Hierosinglelos Father Mardary is a document I obtained from the archives and purports to release him from his church teachers duties and appointed him to the service of his grace Aleutian and North American bishop. This refers to the Russian bishop. Father Mardary came to the United States in 1917 to be the assistant of Bishop Alexander. A
5378 convention was called of mixed Russians and Serbians in 1918 and they elected Mardary as a bishop, but at
5379 that time the Russians refused to ordain him and he went to Belgrade at that time for ordination and they elected him as administrator of the diocese in 1921. DX 36 is a letter from the Serbs appointing him administrator.

5427 (Court adjourns proceedings to chambers)

ZIVAN STEFANOVIC

Cross Examination (Continued)

I am married to the former Vera Moustar. I was
5433 divorced in Mexico. I was the plaintiff in the proceeding. The divorce was in November, 1966. I did not
5434 initiate any divorce proceeding in the church courts in Yugoslavia. I have a permanent visa to be in the United States and I am not a citizen. I have not been here for five years so I cannot make an application.

5435-5437 *Limited Redirect Examination.*

Someone informed the Patriarch of my divorce because it appeared in the complaint against me by which I was defrocked. The laws of my former coun-

5438 try did not require a church divorce nor is that required by the laws of this country. (Proceedings are adjourned back to the court room.)

5440 *Cross Examination resumed.*

5442 I recall testifying about serving on church courts. Deacons cannot be members of the court. I was a
5444 member of a court as a referent or secretary. This is spoken of in article 72 of the constitution. I never
5447 represented the Serbian Orthodox Church as a lawyer because I am not registered as a lawyer at the Bar Association. I was a lawyer in the patriarchate because the constitution requires that the referent of the supreme ecclesiastical court have legal knowledge.

The Glaznik was disseminated throughout the church in Yugoslavia. It was distributed to sub-
5448 scribers. In the United States the diocese or the
5449 bishops receive the Glaznik. At the time I attended seminary I had no connection with the Glaznik. I can-
5451 not say for sure what the dissemination policy was before I became editor. The bishop is required to at-
5452 tend meetings of the Holy Assembly but frequently they can't.

5454 The penal code does not require a clergyman to participate in the court proceedings. If a party is summoned to appear before some investigating organ and that party refuses to participate, the investigating commission has only to establish this by minutes for the record and to inform the organ which delegated that commission. This regulation applies to
5456 bishops. I participated in the work on PX 21, the judgment, with the commission which the Holy Assembly appointed. The commission appointed by the

Holy Assembly of Bishops did not actually compile the judgment. The commission consisted of Bishops Hrizostom, Vladislav and Jovan of Shobautz. The
5458 commission said "You draft the judgment. If you need any help, we will be around to help you." Bishop Hrizostom said that and put the documents at my disposal and I proceeded to draft the judgment. I
5459 did not pass judgment and render this decision. I
5460 put together the complaints of the church prosecutor and the decision of the assembly and formed a third element, the judgment, which is here before us. I compiled it but did not type it. I prepared some parts
5461 of PX 21 in longhand. It cannot be said that I am
5462 the author of the judgment. I took the complaint and added the judgment of the Holy Assembly of Bishops. Only Bishop Hrizostom participated in the
5463 compilation of the decree. In the South Bend Church case I said that no one in addition to myself prepared this judgment. My translator did not understand the essence of the problem at the time. I recall testify-
5465 ing in this court in this matter in February of this
5470 year. If I said I drafted the judgment it must be what I said.

5500 NIKANOR PALJICH testified.

Direct Examination.

My name is Nikanor Paljich and I live in Akron, Ohio and am currently employed by the State of Ohio, Highway Department.

5501 In September of 1950, I resided at St. Sava Monastery in Libertyville, Illinois. At that time I was a member of the clergy and in April of 1950, was appointed superior of the Monastery, which is some-

thing like an Abbot. I was ordained in Yugoslavia by the Bishop of Zhica, Nikolai. I first arrived in the
5502 United States in 1947 and was sent by my Bishop to Canada. I returned in 1950, at that time Bishop Dionisije was residing at the Monastery in Libertyville and I was under his jurisdiction. On or about September 16, 1950, I took a trip to what is known as the Shadeland Property in Pennsylvania in the company of Bishop Dionisije. We went to Shadeland to see the farm and the men who were there. On our
5503 return trip we stopped in Akron, Ohio, at the home of Reverend Bora Pavlovich at 142 Firestone Boulevard. He was assigned to a parish in Canton, but lived in Akron. It was my duty on this trip to drive the car and when we arrived at the home of Rev. Pavlovich in Akron, there were just the two of us.
5504 When we arrived we found Rev. Pavlovich and his wife home alone. Bishop Dionisije asked to use the telephone to call a local priest, Emilijan Glocar. Bishop Dionisije made the call but was unable to reach Reverend Glocar and left a message with his wife as to where the Bishop was.

5505 About thirty minutes later Reverend Glocar arrived at the home of Reverend Pavlovich. When he arrived Reverend Pavlovich, his wife, Bishop Dionisije and myself were present.

5506 When the Reverend Glocar entered the home Bishop Dionisije invited him to be seated and asked him to state in front of the three witnesses present whether or not the Bishop has chased Father Glocar's wife Bora around the table in his home and attempted to attack her. Reverend Glocar stood up from the chair in which he was seated and said, "God be with us, Bishop, that is not true, that is a lie. Believe me and

forgive me I don't know why that was needed by
5507 Silaski to spread that falsehood. The people have accepted that lie as true and I don't know what else I can do but only to tell them that it is not true."

5508-5517 Discussions by Counsel.

5518 I resigned my position in the Serbian Orthodox Church. I was living in Uniontown, Ohio, which is a suburb of Akron in March of 1955 after the Bishop went to Loraine, Ohio. I sent my resignation in on the 14th of March, 1955.

5519 *Cross Examination.*

The conversation that I described above between Bishop Dionisije and Reverend Glocar occurred at the residence of Reverend Pavlovich in Akron. I do not recall the Bishop asking the Reverend Glocar to make any public statement to the effect that he had never said the remark that was in question nor do I recall Bishop Dionisije asking him to send a letter to the Holy Synod, or to the Bishop himself to that effect. To my knowledge the Reverend Glocar did not state that he was going to take any action to cor-
5520 rect this matter. This all occurred in 1950 and I have no knowledge as to whether an investigating committee of the Holy Synod spoke to Reverend Glocar subsequently to our meeting. I never had any occasion to discuss this matter again with Reverend Glocar nor do I recall ever discussing it with Bishop Dionisije. I believe that I could recognize Reverend
5521 Glocar's signature. I have examined Exhibit 16-B, page three and at the bottom the date is July 14, 1963, Akron, Ohio.

5522 It is signed Proto-priest Emilijan Glocar. I cannot be sure if this is his signature since I did not have much contact with him. The entire document

is handwritten, but I cannot say for sure if this is his handwriting. The Reverend Glocar has stated
5523 that the information contained in Item 16-B which is enclosure 10 of the indictment, was the act of Dushan Silaski. The first time I ever heard his name was in Akron and I believe he died that same year in the fall.

5524 I had heard that he was the attorney for the American-Canadian Diocese of the Serbian Church, but I do not know if that is true.

ZIVAN STEFANOVIC, testified.

Redirect Examination.

5753 At the time I left Yugoslavia anyone in the United States could subscribe to the Glaznik.

5757 At the December 10, 1963 Synod meeting when the invitation to dinner by Momo Markovich was received, there were some comments. The Bishop who made those comments is still alive and may have some inconveniences if I mention his name.

5758 This Bishop shook his head and said "We know what kind of dinner it is." After that this statement was made "even if this did not exist, that we could not go to dinner because it was related to them that on the afternoon Metropolitan Arsinje died." Momo Markovich is a President of the Religious Commission of Affairs for Yugoslavia.

5770 Begin offer of proof. I am familiar with a Commission in Yugoslav Government known as the Religious Affairs Commission. It came into existence
5773 in either 1945 or 1946. Dx. 21a is an official paper
5774 of the State of Yugoslavia. All laws, regulations and other decisions brought by the organs of the State are printed in this official paper which I have in front of me.

5775 This particular issue is dated Tuesday, August 21, 1945. In it is printed the State Regulations about the creation of a Commission for Religious Affairs. I have seen this Regulation before and I am familiar with it.

5776 The Religious Affairs Commission was functioning from the date of its inception in 1945 up to and including the date that I left Yugoslavia. My Church duties involved me in contacts with the Commission for Religious Affairs.

5777 I had oral and written contacts with the Commission. The organization of Religious Affairs Commission is first a commission for the Federal Republic. Then each individual Republic has its own law forming a Religious Commission of Affairs. Each County has its own Commission, and each commune or local unit has its own organ which represents the organ above them. I had to deal with the Religious Commission of Affairs which is located in Belgrade. In
5780 accordance with the orders from the Patriarch I and others who served in the Patriarch kept contact with the Religious Affairs Commission. After the end of World War II and up until the time that I left in 1965, the Patriarch in the Church received money from the Yugoslav Government through the Religious Affairs Commission.

5791 (The Court states that it does not feel that defense should be permitted to inquire into the contact or relation of the Religious Affairs Commission and the Church and its influence with reference to the action of the Church.

5792 The Court states that its view is based upon *Kedroff*.)

5793-5807 (Court and counsel exchange views on the law.)

5808 After World War II restrictions were placed on

the Church by the Government with reference to the collection of money and the ownership of property. In 1944 the Government forbade the Church to collect donations by the Priests in their Parishes and limited the collection of donations to the Church building only. The State abolished the 10% taxation, the Patriarchal assessment.

5809 The State confiscated Monastery and Church properties and reduced the amount of real estate to that which could be possessed by one landowner. Excaption was made only to the Churches and Monasteries which were of historical value. Some of our monasteries had up to 500 hectaraes of forest and this was reduced to 30 hectaraes.

5810 The Church Parish home was also confiscated in Vojvodine. Later on with the law of nationalization of church property they took away all church buildings except the Parish home. With that act the Church was left without financial or other property means and was unable to prosper without the help from the State. Great amount of financial aid to the Church was given by the World Council of Churches and other organizations in the United States. Twenty percent of the help given was retained by the Church and 80% was received by the State.

5811 Patriarch at the end of World War II was Gabrilo, and he was taken prisoner by the Germans.

5812 His duties were performed by Metropolitan Joseph. The Patriarch was in Dachau. He returned in November of 1946.

5813 The first money given by the State in 1945 was 15 million dinars.

5815 In 1946 I was referant to the Supreme Ecclesiastical Court and doing the work of the Holy Synod.

5816 I had contact with Metropolitan Joseph every day.

I accompanied him on visits that he made to his Diocese.

5817 Help for the Church was received through the Religious Affairs Commission. Monies received by the Executive Board of the Patriarchate through the Holy Synod.

5818 I believe the Patriarchate received between 15 and 30 million dinars in 1946, from the Religious Affairs Commission.

5819 Patriarch Vicente was elected after the death of Patriarch Gabriel in 1950. A record of the money received yearly from the Religious Affairs Commission is recorded in the minutes of the Holy Synod.

5820 I had access to those minutes. In 1963 the Church received 120 million.

5821 There was an organization in Yugoslavia when I left known as the Priests Association.

5822 Such an organization existed prior to World War II, but it ceased and in 1946 or 1947 a group of Priests who participated with one military army called the Partisans organized a new Priests Association under the protection of the State. The State paid the leaders of the Priests Association to help start a paper which is called "Vesnik." The first duty of the Priests Association and of this paper were to attack the Bishops, Priests, and the Patriarch if they did not cooperate with the State.

5823 I know who paid the travel expenses of Bishops Visarion and Hrizostom when they came to the United States in 1963.

5825 The Commission of Religious Affairs paid for the Investigation Commission in 1963 and for the expenses of Metropolitan Damaskin and Bishop Nikanor.

5826 After Patriarch German reviewed the Glaznik, it is given to the printing office. During printing the manuscript is given to the State Prosecutor.

5827 If the State Prosecutor finds among the articles in the Glaznik, one that is in conflict with the State policies they would forbid the printing and institute legal action. There is almost no case that a complaint of the State Prosecutor was dismissed. Later this policy was changed so that when the State Prosecutor complained, we threw out only the incriminating portion of the Glaznik (Herald), the rest of it was printed.

5828 There is a list of candidates for election to the rank of Bishop.

5829 The list is entered in the minutes of the Holy Assembly and is kept in the office of the Synod.

5832 Diocesan Bishops could recommend candidates during each session of the Assembly. Each year the Bishops submit their report and a list of these candidates is maintained.

5836 I saw the list of approved candidates for the rank of Bishop in the year 1963.

5837 Bishop Firmilian was not on that list. At the Assembly meeting in July, 1963 Bishop Firmilian was elected.

5840 Metropolitan Arsinije and other Bishops opposed the nomination of Bishop Firmilian.

5841 I know the reason for Metropolitan Arsinije's opposition. In 1939 and 1940 there is a trial of a divorce case in a Church Court of the Diocese of Belgrade-Klovci.

5842 The case was instituted by Alexander Angelkovich, a Clerk in a Bank, against his wife who committed an unfaithful act with a Priest, Stanko Ocokolijich, his name was changed to Firmilian when he became

a Monk. The divorce was granted and Metropolitan Arsinije was the President of the Court which brought forward this judgment, as he was at that time the Vicar Bishop of Moravice. Metropolitan Arsinije opposed the election of Firmilian on account of the Penal Code and Apostolic Rule #25, forbidding a cleric who commits such an act to become a Bishop.

5843 Metropolitan Arsinije was taken away from the meeting of the Holy Assembly as sick. I had a conversation with him.

5844 The conversation occured immediately after the meeting. He told me that he was restricted from the meeting of the Holy Assembly because he was against the election of Firmilian.

The Commission of Religious Affairs vetoes can-
5845 didates for Bishop, and a candidate cannot be elected until the Commission for Religious Affairs shall remove its veto from the name.

5846 The Glaznik was printed by a man named Doz. All printing presses are nationalized. The Easter message of the Holy Assembly of Bishops for 1964 was printed in 10,000 copies. The State Prosecutor forbade taking the Easter message out of the printing office and it was destroyed.

5848 The act of the State Prosecutor was not taken into a Court proceeding.

5849 The State Prosecutor and the Commission for Religious Affairs ordered no distribution of the 100,000 copies. The objectional part of the message was an emphasis on the Serbian Church's contribution as the main factor in unifying the whole Serbian Nation.

5851 Dx. 59 is religious literature for the Priests and faithful of the Orthodox Church. This book was written by Bishop Nikolai Velimirovich, printed in 1928 in Yugoslavia.

5852 Dx. 60 is a reprint of #59 under the name "The Lives of the Saints." I and another man corrected exhibit #60 at the time that it was printed by the Synod. It was printed in 1961.

5853 Credit for authorship is not given to Bishop Nikolai.

5856 I know the circumstances surrounding the failure to include Bishop Nikolia's name as author.

5857 After the Second World War, Bishop Nikolai did not return to the Country but came to the United States and the State Authorities proclaimed him as the enemy of the State, and when this book was printed they would not allow his name to be mentioned. This is the same Bishop Nikolai who is buried at the Serbian Monastery in Libertyville.

A special Sabor was called to elect a successor to Patriarch Gabriel in 1950.

5858 There were actually two Sabors for the election of Patriarch German and I participated in them.

5859 The first was opened and conducted by Metropolitan Joseph. I was present at the time the meeting was called or attempted to be called.

5860 The members of the Sabor got together.

5861 The Metropolitan made the statement that no quorum was present and ordered another date for election of the Patriarch. I know why there was less than a quorum in attendance.

5862 The candidate for Patriarch was Metropolitan Arsinije, who later died in jail, and the Religious Commission and Government were against his election. Because the Assembly did not obey the State Authorities ordered to throw out his name from the list of

candidates, the State Police gathered at the railroad station the civilian members of the Sabor, and took them to the building of the Clergy Association, told them not to appear at the Sabor, and this is why the Sabor was not held. After the death of Patriarch Gabriel, Patriarch Vicente was elected. (Counsel states that he is offering Dx. 21 and 21a and the offer of proof which is now closed. The Court refuses the offer of proof.)

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

5880 Archimandrite Mardary was not elected as bishop of the Russian Church. He went to Yugoslavia and was appointed administrator of the diocese in the
5881 name of the bishop of Ochrid, Nicolai, in 1922. Bishop Nicholai was administrator since he visited the diocese in 1920 when he received many blessings from the clergy and people of the diocese. In 1946 Bishop
5882 Nicholai came to this country on my affidavit and he subsequently died here. Father Mardary returned to Yugoslavia at the end of 1923 or beginning of 1924 and he was elected as supervisor of the monastic school in Rakovica where he remained until 1926. There were many applications from the United States
5883 for a bishop and he was elected bishop in 1926. Bishop
5884 Nicholai was the bishop-administrator of the diocese. Mardary helped the bishop. Mardary could only handle the inside administrative work, not the ordinations of priests or consecrations of churches. This is
5885 evidence in DX No. 36. Archimandrite Mardary sent out a communication in 1923 which is evidenced by DX 35. This letter bears his original signature.
5886 There was a conference of Serbian Orthodox priests

in Gary, Indiana on February 21, 1923 called by Archimandrite Mardary. The First Ecclesiastical Court
5887 of the diocese was elected at that time. DX 38 is a Russian document directed to Archimandrite Mardary who has notified them that he is administrator
5888 of the diocese. Bishop Nicholai resigned and Patriarch Dimitrius took administration of the diocese. Mardary stayed for one year, started to build the monastery of St. Sava and found great difficulties. He went to Yugoslavia and became superior of the monastic school in Rakovica until 1926 when he was elected as bishop. DX 39 is from Patriarch Dimi-
5893 trius to Archimandrite Mardary. DX 45 indicates there was a priest conference in Gary, Indiana in 1923.

5894 This is the first conference after establishing a Serbian diocese in 1921. But prior to that there were two conferences, in 1913 and in 1916, of Serbian priests.

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

5964 Archimandrite Mardary went back to Yugoslavia in 1924 and served for two years as supervisor of the Monastic School. He was elevated to the rank
5965 of Bishop thru an election by the Holy Assembly of Bishops and confirmation by the government of the Kingdom of the Serbs, Croats and Slovians. This was under the reign of King Alexander. I recognize defendant's exhibit 64A which is a confirmation of Bishop Mardary as Bishop of the American and Canadian Serbian Orthodox Diocese which I found in my search of the archives of that Diocese.

A Sabor was held on May 30th of 1927 at the Monastery of St. Sava at which a diocesan council was elected. Defendant's exhibit 47B is entitled "Minutes of the Serbian Orthodox Church National Assembly held May 29th, 1927 in Chicago." This was printed in the American Newspaper Daily Srbobran in Pittsburg.

I have examined defendant's exhibit 47B purporting to be the minutes of the first national assembly and exhibit 47 purporting to be the minutes of the first diocesan council meeting and there is contained a reference to by-laws but not the completed by-laws.

The completed by-laws were adopted on September 1st, 1927 at the Second Assembly. Defendant's exhibits 8, 9 and 10 are minutes of the September 1927 meeting. The constitution of the American Canadian Diocese was adopted by the National Assembly in September of '27. This is reflected in plaintiff's exhibit 104A. After passage the constitution was printed in Chicago and sent by special letter to the Holy Synod for approval. It was sent by Bishop Mardary as evidenced by DX 50 purporting to be the report to the Holy Synod dated October 7th, 1927 and signed by Bishop Mardary. DX51 and 51A was a communication from the Holy Synod in response to Bishop Mardary's forwarding to them the 1927 constitution. It is entitled "explanation of the Holy Episcopal Synod."

DX 51, a notice from the Synod to the American Diocese, contained a statement of policy reflecting the concern of the Holy Synod that granting of autonomy to a branch of the church must only be done when the guarantee of the right of approval of all

organizational changes remains with the Holy Synod.

From my examination of the archives of the diocese I was able to determine that the next National Assembly of the American Canadian Diocese was held in 1931.

And the next was held in 1938 after the death of Bishop Mardary. Bishop Damaskin was appointed in 1938 and he left at the end of 1939. I recognize DX65 addressed to me and dated December 22nd, 1961, a letter from Patriarch German in the same condition as I received it. The signature is that of Patriarch German and I know that signature.

This document contains the official seal of the Holy Bishops Synod. I believe that I am the only member of the Holy Bishops Assembly who was outside of Yugoslavia in 1961. I responded to the letter of Patriarch German, defendant's exhibit 65. Defendant's exhibit 66A dated March 18th, 1962 and addressed to his Holiness the President of the Holy Bishops Synod is a copy of that letter which I wrote to his Holiness in response to his letter of December 22nd. I recognize DX67A dated October 12th, 1954 signed by Patriarch Vikentije who was Patriarch before Patriarch German. This document contains the seal of the Holy Synod. DX68A is a copy of a letter dated December 28th, 1954 addressed to Patriarch Vikentije and the Holy Synod signed by me. In this letter I replied to his Holiness Patriarch Vikentije in his letter of October 12th. DX68 is a true and correct translation of 68A. The heading Serbian Orthodox Diocese for the United States of America and Canada, the Serbians Orthodox Monastery at St. Sava, Libertyville is not on a translation but was on the original. I recognize DX69A as a letter addressed to

Bishops Nikolai and Dionisije from the Holy Bishops Synod of the Serbian Orthodox Church in Belgrade
5997 dated May 25, and also May 12th 1948.

6003 I have examined DX70A a letter from the Holy Bishops Synod of Belgrade dated November 12, 1946 addressed to me from Patriarch Gabriel. I received this letter shortly after the date it bears. It bears the signature of the Patriarch Gabriel which I recognize. DX70 is a true and correct translation of this document.

6004 DX71A is a letter dated April 10, 1947 addressed to Patriarch Gabriel from me and 71 is a true and correct English copy.

When I was at the University of Belgrade I studied the philosophy of dialectic materialism. Dialectic materialism is a form of the atheistic communistic teach-
6005 ing of their principles. At that time I took a stand against this philosophy.

6006 I belonged to an organization at that time opposed to dialectic materialism or to the philosophy of communism.

6007 The organization was called Serbian Christian Unity. I believe there were more than two hundred chapters. From 1921 to 1930 I was president of that movement. I was succeeded as president by Bishop Nikolai.

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

6158 DX 77 and 77A is a letter addressed to Ecclesiastical Court of the American-Canadian Diocese which I found in the Archives (Dx 77 and 77A offered and
6161 admitted). DX 78 is a translation of the letter notifying ecclesiastical appointment of Bishop Irinej in 1936. (DX 78 and 78A are offered). DX 79 is a cor-
6172 rect English translation of DX 79A which I found in the Archives. (DX 79 and 79A are admitted).
6173-6174 (Offer of proof). Serbian Orthodox Christian
6175 Unity was approved by the church. The purpose of the organization was to defend the ethics of the church and the teachings of the church against some
6176 protestant groups and against the Communist teach-
6177 ings. It published a monthly periodical. DX 80A is our publication starting with January, 1926 and ending in 1928. Volumes were published for the period 1920 through 1930. This volume contains articles that
6178 I wrote against Communism. November and December 1927 there is an article about the Baptist Convention and an article on page 23 against a Communistic Periodical. It is canonically proper to take
6180 a stand against Communism in the Serbian Orthodox Church. My opinion is based upon the apostolic
6181 canons and all the other canons of the orthodox church. When I left Yugoslavia the government was that of King Peter II. He continued in power until
6182 1941 when the government was exiled and then the Communists came in 1945. Until 1945 I was paid by the royalist Yugoslav government in exile. I did not receive any income or salary from the Assembly or the Synod. Since that time I have not received any income or salary from the Assembly or Synod. I have
6184 received none from the government of Yugoslavia.
6185 There was a church people's assembly in 1960. DX 81A is a resolution adopted by that assembly. The
6186 assembly was attended by 150 delegates. The 1960
6198 resolution the church national assembly took a position with reference to Communism and also regarding

6199 the Macedonian church. In 1959 the Patriarch recognized the Macedonian church and a constitution which provided they may elect their own bishops and work autonomously with their own church. We did not
6201 recognize that in the United States. (Defendants offer DX 81 and 81A).

6202 There was a church national assembly in September, 1956. DX 82A is a true and correct copy of the resolution adopted by that assembly. This resolution was printed in newspapers but neither it nor the 1960 resolution were sent to Belgrade. (DX 82 and
6203 82A offered). There was a church national assembly
6204 in 1962 and DX 83A is the resolution adopted at that
6209 time. There was a church national assembly in 1948
6210 and DX 84A is the resolution taking a stand against the Communist regime in Yugoslavia. I don't know
6211 if this resolution was forwarded to the Holy Synod or Assembly. There was a church national assembly in 1944 in Chicago and DX 85A is a resolution condemning the Communist movement in Yugoslavia and in favor of the Chetnik movement of General Mihailo-
6212 vich. (85 and 85A are offered).

DX 86 is the August 7, 1947 issue of the Yugoslav-
6213 vian paper, *Struggle*, which is published by the Com-
6214 munist Party of Yugoslavia. My name is mentioned in this article. (Defense counsel underlines in ink).
6215 The article is the text of Marshal Tito's speech and conversation with a delegation of priests that visited
6216 Yugoslavia. DX 86A is an English translation of the Serbian wherein I am mentioned in the course of Marshal Tito's speech.

6218 DX 87 is the October 12, 1946 issue of the newspaper, *Struggle*. The first article on the page has the title "Bishop Synod Serbian Orthodox Church
6220 is Giving Support to the Traitor of Bishop Dionisije."

DX 87 is a translation of a portion of that article.

DX 88A is a copy of the daily newspaper *Politika*
6221 dated October 13, 1954 published in Belgrade, Yugo-
6224 slavia, under government supervision. DX 88 is an English translation of a portion of that article. The chairman of the Religious Affairs Committee was Mr. Radosavijevich at this time.

DX 89A is a handwritten letter from Patriarch Vi-
6225 kentije to me which I received shortly after January 4, 1952. (Counsel offers 89 (the translation) and 89A).

DX 90A is a letter addressed to me from Patriarch Gavrilo which I received in the latter part of 1948. DX 90 is a translation.

6227 DX 91A is the April 3, 1946 letter from Metropolitan Joseph to me and 91 is a translation (exhibits are offered).

6228 DX 92 is a memorandum to the President of the United States dated March 12, 1945. I wrote it with the President of the Serbian Federation and the President of the Serbian Defense Council. (Exhibit offered).

6229 DX 93 is an article about Bishop Varnava written
6231 in 1948. (Exhibit offered). DX 94 is a pamphlet regarding persecution of the church in Yugoslavia supplied in 1954 to the World Council of Churches. It was prepared by me and Bishop Nicholai. The World Council of Churches meeting is the same one that is mentioned in the newspaper article that ap-
6232 peared in *Politika* in October, 1954. DX 95 is a copy of the petition to the president dated July 9, 1945. (Exhibits 94 and 95 are offered).

6233 DX 96 was prepared for submission to the President and Secretary of State by myself, the President of the Serbian National Federation and the President of the Serbian National Defense Council.

DX 97 is a press release regarding persecution of the Serbian Orthodox Church in Yugoslavia under Tito which was prepared about August 6, 1954. It was published in some newspapers. (Exhibit offered). There was some priests in this country who were opposed to my opposition to the Communist regime in Yugoslavia. There were 7 priests, including Emilijan Glocar who is mentioned in the indictment. DX 98 is a copy of the decision of the Ecclesiastical Court of the diocese regarding Reverend Drenovac, one of these 7 priests. The decision of the court was forwarded to the Synod for confirmation. DX 99A is the approval of Drenovac's judgment by the Synod. DX 99 is a correct English translation. (Exhibits offered). DX 100 is the decision of the Ecclesiastical Court of the diocese concerning Reverend Drijbich. I presided at that court and the members included Dusan Shukletovich and Milan Brkich. This decision was forwarded to Belgrade and DX 101 is the Synod's decision confirming the judgment of the Ecclesiastical Court. 101 is a true and correct translation of 101A (Exhibits offered). DX 102 is a letter to the Department of Justice dated March 1, 1945 advising of the action taken against these two priests. During World War II and after World War II there was a publication called "Free Expression" published in Pittsburgh. It was published by a group of followers of the Stalinist line in Russia. Reverend Drenovac wrote several articles in that publication attacking us and defending Soviet Russia and Tito's regime. We made an investigation of this publication. DX 103 was prepared under my direction and supervision by Reverend Kozomara. It

has copies of the newspaper attached to it. In the copy of "Free Expression" dated January 5, 1944 Reverend Glocar at page 28 states that I will be destroyed as will all those who are against the people. DX 104 is a communication I received from the Synod. 104 is a correct translation. (Exhibits 104 and 104A are offered).

BISHOP DIONISIJE testified:

Direct Examination (Continued).

(Offer of Proof continuing). DX 110 A is a guide to subversive organizations published December 1, 1961. On page 20 it lists the newspaper "Free Expression" (Exhibit offered). DX 111 A purporting to be a declaration of the Serbian people is dated July 21, 1942. The seventh priest whose name I could not remember yesterday was Jovan Krajanovich. Reverend Drenovac was defrocked. Reverend Militich was also defrocked. Reverend Popovich, since he was silent and didn't work in the "Free Expression", we did not bother him. Reverend Popovich was a priest in the American-Canadian diocese until 1963 when he went over to Bishop Sava of the Eastern American Diocese. I believe he's serving in McKeesport, Pennsylvania under Bishop Sava. Reverend Kajanovich died soon after 1942. No action was taken against him because he did not participate in writing anything in the subversive newspaper "Free Expression." Reverend Gachinovich was defrocked. Reverend Glocar was defrocked. Reverend Vusijich died ten years ago or so. There was court action against him. He was defrocked and then he died. DX 112 A is a record of the Ecclesiastical Court proceedings against Father Jachinovich. 112 is a true

and correct translation (exhibits are offered). This decision was appealed to the Synod. DX 113 A is the
6308 decision of the Synod dated April 20, 1950 under the signature of Metropolitan Arsinije and 113 is a correct translation. (Exhibits are offered). DX 114
6309 A is a report of the subcommittee on immigration and naturalization entitled "Communist Activities Among Aliens and National Groups". There is an
6310 analysis on page 625 of the newspaper "Free Expression". This is the same paper we have been talking about. On page 27 the Nicholai Denenovac is the same person we have referred to as Father Drenovac. (114 A is offered). DX 115 A is a report
6312 I prepared and submitted to the Diocesan Council of the American-Canadian Diocese. 115 is a true and correct copy. (Exhibits offered). DX 81 C is
6313 a letter from Patriarch German to me dated October
6314 15, 1960 acknowledging receipt of the resolution which is DX 81 A. 81 B is a correct English trans-
6316 lation. (81 B and C are offered). (Defense Counsel
6317 states that he closes his offer of proof). Plaintiffs' counsel states that he will not cross-examine the
6318- witness with respect to the offer. Defense counsel
6319 states that the purpose of the offer is to show the real reason for the removal of Bishop Dionisije was his opposition to the government of Yugoslavia. The
6321 Court refuses the offer of proof. The Court states
6328 that exhibits offered in the offer of proof are refused.

6329 The first knowledge I had of the Damaskin dele-
6330 gation coming in 1962 was a private letter from Metropolitan Damaskin. I had not requested this delegation. I heard rumors about the delegation coming
6331 but I heard nothing official from the Synod. Later

on I had a letter from the Synod. DX 116 A is the letter from Damaskin and 116 is a correct translation (exhibit received).

6333 Metropolitan Damaskin and Bishop Nikanor arrived in the middle of September, 1962. I wrote Archimandrite Formilian to receive them in New York and I met them at the airport in Chicago. I knew only Metropolitan Damaskin, not Bishop Nika-
6334 nor. I had not seen him for 22 years. We held one meeting of the diocesan executive board to receive the delegation. Metropolitan Damaskin and Bishop
6335 Nikanor stayed at the monastery. Two or three days after they arrived they brought a letter from the Holy Synod which was addressed to me from Metro-
6336 politan Damaskin. It had been written by the Synod. DX 117 A is the letter dated August 5, 1962 to which I made reference. I believe I received this letter
6337 by mail and that Metropolitan Damaskin brought a
6340 copy also. (DX 117 A received in evidence). In March or April, 1962 we sent some proposals to the
6342 Patriarch about amending our constitution. One of these letters I mentioned contained a proposal for the election of two or three assistant bishops, to as-
6343 sist me. PX 73, an excerpt of the meeting of the Synod on June 12, 1962, refers to the purpose of the delegation to consider the elevation of the American-Canadian Diocese to the rank of Metropolitanate and the adding of a diocese of South America and South Africa as well as the election of two or three vicar bishops to myself. The delegation was to do other things that it found appropriate and necessary to do. After the delegation had had a few days rest at the monastery I started to discuss these various proposals with Damaskin and Nikanor.

I personally asked Metropolitan Damaskin whether there are any charges against me. He said "I have some letters against you." I said to him "Probably you will send it to me through the Holy Synod for my answer and if you send it to me, I will answer it." Then both of them agreed that they would send charges to me. If a charge had been made against me it was forwarded to me by the Holy Synod for me to answer. From 1946 when I started to oppose the Communist government in Yugoslavia, their groups in America sent charges against me. They sent 12 charges to Belgrade to Metropolitan Joseph against me. Prior to 1962 I received communications from the Holy Synod with reference to charges and I was requested to make an answer to those charges to the Synod. The first of these occurred around 1946. In 1940 some people complained to the Assembly about my being elected bishop but these matters were not sent to me. The first time I can recall getting a charge was in 1946. I was accused of dividing our people and being against Soviet Russia. DX 118 A is a letter written from the Synod dated October 6, 1946 signed by Metropolitan Joseph. This letter quotes a telegram from an organization in the United States accusing me. DX 119 A is the response I wrote on December 4, 1946. (DX 118, 118 A, 119 and 119 A are offered). (These exhibits are admitted).

I received DX 120 A, a letter dated November 1, 1946 from the Holy Synod. 120 is an accurate English translation. DX 121 A is the enclosure with that letter. 121 is a correct English translation. (DX 120, 120 A, 121 and 121 A are admitted in evidence.)

DX 122 A is my reply to DX 120 A. I inquired first

whether the complainant was a member of any church congregation and when I discovered that he was not a member but is a member of a Communist group I replied that his charge was political (exhibit offered). I received DX 123 A, a letter dated December 16, 1946 containing a communication of the Synod from the Montenegran Literary Society. I made a response to this charge in my letter, DX 124 A. (DX 123, 123 A, 124 and 124 A are admitted).

DX 125 A is a letter addressed to me from the Synod referring to a telegram from the United States. 125 is an English translation. I replied to this request. (DX 125, 125 A, 126 and 126 A are admitted).

DX 127 A is my reply to 126 A. The priest referred to in the second numbered paragraph was defrocked and his defrockment was approved by the Holy Synod. (127 and 127 A are admitted).

I received DX 128 A shortly after its date, February 8, 1948 and I recognize the signature as that of Patriarch Vikentije. This document refers to affiliating the American-Canadian Diocese with the World Council of Churches. I responded to this request. Patriarch German is the president of the World Council of Churches. (DX 128 and 128 A are admitted).

DX 129 A is a true and correct copy of the letter I sent to the Synod on April 10, 1958. (DX 129 and 129 A are offered). DX 130 A is a letter I received from the Synod signed by Metropolitan Joseph. I responded to this inquiry concerning attendance at the Catholic Club of Chicago. (DX 131 A is a copy of the enclosure, from the Minister of Foreign Affairs at the Federated People's Republic of Yugoslavia. This document bears the signature of Nichola

Alagich and the seal of the Synod. (130, 130 A, 131
6372 and 131 A are offered). In response to this request from the Minister of Foreign Affairs I got communications from both Metropolitan Joseph and Bishop
6773 Vikentije. DX 133 A is a copy of my letter to Metropolitan Joseph dated November 14, 1947. (DX 129
6377 through 133 are admitted).
6378 DX 134 A is a letter dated November 12, 1946
6379 which I received from Patriarch Gabriel. 134 is a correct English translation. DX 135 A is the enclosure referred to in 134 A, a transcript of a com-
6380 plaint by Ilija Vukmanovich. (DX 134, 134 A, 135 and 135 A are admitted). DX 136 A is a copy of my
6381 letter dated July 16, 1947 which I wrote in response to 134 A and 135 A. (136 and 136 A are offered).
6382 DX 137 A is a January 10, 1947 letter from Synod
6383 signed by Metropolitan Joseph. The four petitions which were enclosed were sent to me to report and return to them so I returned all of them and made a report. I do not have the four petitions any longer.
6384 137 is a true and correct English translation. DX 138 A is a letter dated July 15, 1947 from me to the
6485 Synod. This is a true and correct copy of my response to DX 137 A. The petitions are numbered in
6387 Exhibit 137 A. (DX 137, 137 A, 138 and 138 A are
6388 admitted). DX 139 A is a letter from the Synod over the signature of Bishop Vikentije dated October 10, 1947. I received this letter and it bears the signature
6389 of the bishop and the seal of the Synod. The letter remarks in closing that similar deliveries such as the petitions would be placed in the Archives and I will
6390 be notified about them. DX 140 A is a letter to me dated February 27, 1954 from the Synod and it bears the signature of Bishop Chrysostom. The Synod

6392 didn't ask for any reply so I did not make one. The enclosures which are referred to may be in the Ar-
6393 chives. I will look for them. The letter says "In ad-
6394 dition I send a copy of denunciation." From February 8, 1958 until September 1962 no further complaints were forwarded to me by the Synod or the Patriarch. The only thing I received was a warning of Patriarch German about not mixing in politics. I
6395 am referring to DX 65 A. The Synod did not advise
6396 me during those four years of any charges against me. My reply to Patriarch German's 1961 letter is
6398 DX 66A (Court admits DX 65, 65 A, 66 and 66 A).

I asked the Holy Synod to confirm rumors which we had in America that a delegation was coming and I sent them a letter in August. Finally they confirmed that the delegation was coming. After the bishops rested we began to discuss these problems.
6402 Damaskin and Nikanor said to me "We are not any investigating committee to investigate anything against you." They stayed in Libertyville all the
6403 time that they were not traveling around the United States. They left at the end of November or beginning of December. I accompanied them to some of the
6404 congregations; when they went to California I didn't. I went with them to Chicago, Cleveland, Gary and other places in the Middle West. I did not go to
6405 New York with them. They went to Canada.
6407 The people whom they contacted told me "They are looking for some accusations against you." I
6408 began to hear this from the first day of the delegation's arrival. First Metropolitan Damaskin told me there were some charges against me and he said that the charges would be sent to me for my answer. Our priests and some reliable laymen made me aware that the delegation was investigating or questioning

people. Reverend Branko Kovacevich had a very sharp conversation with Metropolitan Damaskin in Cleveland. In the monastery after dinner time I had a conversation with Father Petrovich who accompanied the delegation. It was about at the middle of their visit. Reverend Balach, Mr. Filipovich, his wife and Mr. Vidakovich was present when Father Petrovich said "We have a full bushel of complaints against the Bishop Dionisije, adding to that bushel which we are collecting in here in America." I had a conversation with the delegation and said to them "You received some charges against me, I want you to send it to me for my reply." They promised to send them. This last conversation was at the end of November when he had the second diocesan council meeting with them. Both bishops were present but I talked with Metropolitan Damaskin as the head of the delegation. Bishop Damaskin at that time nor at any time furnished me with copies of any of the charges. After Metropolitan Damaskin, Bishop Nikanor and Father Petrovich returned to Yugoslavia. They never sent me copies of any of the complaints or charges which they obtained in the United States. Metropolitan Damiskin never sent me a copy of his report to the Synod. PX 84 E, my letter to the Synod dated April 19, 1963, requests them to send the entire basketful of complaints against me. I never got a response to that letter.

One of the purposes of the delegation was to consider the elevation of the American-Canadian Diocese to a Metropolitanate. This had been recommended to the Holy Synod by Damaskin in 1938. I also recommended this. I recall when Patriarch German was here for a month. The conversation with I have a conversation with him with reference to

complaints against me in Belgrade. Patriarch German were here for a month. The conversation with Bishop German took place in my office in Libertyville in the presence of the secretary of the diocese and Dr. Glumac. He told me there was a complaint by some lawyer and I asked him to send it to me for my reply and he said to me "Don't worry about it." He said the complaint was in the files of the Synod. The lawyer was Dusan Silaski, former legal adviser to the diocese. He said "Don't worry about that; it is nothing."

I organized a special fund for the expenses of the 1962 delegation. While they were here they visited The Yugoslav consulate in Chicago and one or two times the Yugoslav Embassy in Washington. Since the end of World War II I have not maintained any relationship with the Yugoslav Consulate in Chicago. I have had no contact with the Yugoslav Embassy in Washington. The delegation told me they were going to the consulate in Chicago and asked secretary Balach to take them by car. I told my secretary to take them before the consulate and not to go inside. They went to Washington from New York.

From the time I came here in 1940 until May 10, 1963 neither I, the diocesan council of the church national assembly or anybody, requested the Holy Synod to divide this diocese into three dioceses. First knowledge I had of the division of the diocese was on May 21 when I received the Synod's decision of May, 1963. PX 84 C is the first communication I had.

I received a letter which appears at page 50 of PX (6426- 84. (Lengthy argument regarding production of 6458) documents). Copies of the letter which I received were sent to the diocesan council, Ecclesiastical

Court and the church national assembly. The letter from the Synod dated May 17, 1963 is addressed to me as bishop of the Middle Western American Diocase. (Counsel for plaintiff states that page 50 of PX 84 is in evidence as 84 A). DX 141 A is a letter dated July 30, 1962 sent to Patriarch German and 141 is a true and correct English translation.

At the diocesan plenum in February, 1962, we decided to send the delegation to Belgrade to explain our diocesan needs and three members were chosen as delegates, Reverend Brkich, Nich Stepanovich and Mr. Maravich. I wrote the Patriarch and the Synod that the delegation was coming. Patriarch answered and said that he would not accept the delegation without me. I thought to go with the delegation but the diocesan board recommended that I do not go. I intended to go but I had a fear because Tito's government declared me a traitor of Yugoslavia. When this was brought before the diocesan council they said "You should not go and shall not go."

(DX 141 and 141 A are admitted in evidence.)

DX 142A is the letter dated April 20, 1962 from the Patriarch. PX 84 I is the letter from me to the Patriarch dated February 13, 1962. DX 142 is the letter I received from the Patriarch requesting that I attend. I received DX 143A, a letter from the Patriarch dated March 2, 1962. 143 is an English translation. 143 is the first letter I received in response to my letter of February 13. (142, 142A, 143 and 143 A are admitted in evidence). DX 144A is my letter dated March 20 to the Synod. 144 is the English translation. (144 and 144A are admitted). DX 145A, dated March 27, 1962, was written by Metropolitan Damaskin to me and 145 is a correct English translation. (145 and 145A are admitted). DX 146A, a

letter to me from the Synod dated May 9, 1962, was received shortly after its date and 146 is a true and correct English translation. (DX 146 and 146A are received in evidence). DX 147A is my letter to the Synod dated May 23, 1962 and 147 is a true and correct English translation. (Exhibits admitted). The Patriarch indicated that they would not receive a delegation unless I headed it. Reverend Brkich had already left because he intended to see his father somewhere in the village. Mr. Stepanovich and Mr. Maravich did not go. Reverend Brkich, who had already left for Europe, did visit the Patriarch and he wrote me two letters from Belgrade.

(DX 148, pages 30, 31 and 32 of PX 84 are admitted in evidence).

DX 148 is the two reports Father Brkich sent me.

DX 149A is addressed to "His Grace Bishop of the Mid Western American Diocese, Lord Dionisije, Libertyville" is the first letter I received concerning the division of the American-Canadian Diocese into three new dioceses. DX 149 is a true and correct English translation. (DX 149 and 149A are admitted in evidence). I received PX 3D, dated May 10, 1963, after I received DX 149. The May 17 letter came before the May 10 letter. Before receiving this letter I had not had any communication from the Synod or the Assembly requesting me to accept a transfer from my duties as bishop of the American-Canadian Diocese to the office of bishop of the Mid West American Diocese. It is the rule of our church to ask a bishop prior to removal from one diocese to another whether he will accept it or not. Bishop Visarion made reference when he testified to the usual custom to ask a bishop to accept a new appointment. Article 217 of the constitution of the Serbian Orthodox

Church deals with transfers of bishops. Article 216, subparagraph A-4, and Article 217 of the Serbian
6506 Orthodox Church constitution (PX 68) refer to transfers of bishops as penalties. Article 57 of the penal code, PX 69, deals with the transfer of a bishop from one place to another as a penalty. Article 111 of the constitution, with which I am familiar, pro-
6507 vides for the removal of a diocesan bishop only by canonical verdict. At the time I received the May 10 and May 17 letters I was familiar with Articles 216 and 217 and 111 of the Serbian Church constitution and Article 55 of penal code.

6508 Because I noticed that the decisions in the two letters were a violation of the constitution of the Serbian Orthodox Church I refused to accept the deci-
6509 sions. I wrote a letter on or about June 3, 1963 to
6510 the Synod and the Assembly. PX 84B, pages 60, 61 and 62 of PX 84, is the letter I wrote to the Synod and Assembly. The first thing I did following receipt of these two letters, May 10 and May 17, was to call
6511 a meeting of the Diocesan council. The meeting was held on June 6, 1963. After the meeting of the council on June 6 a telegram was sent to the Holy Bishops' Synod. PX 15 is a copy of that telegram dated June 9, 1963.

6512 I opened that meeting on June 6 and the vice presi-
6513 dent presided. In my 24 years as a bishop I have not been aware of any action by the Synod suspending
6514 and transferring a bishop to another diocese. No
6515 reply was received to the telegram. I did not receive a reply to my June 3 letter. I did not receive a letter similar to PX 13. I did not receive any communication directly from the Synod with reference to the fact that an investigating committee had been

appointed, only copies from their appointed administrators. The letters were not addressed to me. When
6516 the investigating commission arrived in the United States they wrote me a letter requesting a meeting. I said to them I could not accept them in the monastery but in a nice restaurant in the hope that we
6517 would have dinner together. We went to the Rustic Manor in Gurnee. Fourth of July is our greatest celebration at the monastery. Usually four to six thousand people attend. We have Holy Liturgy and then go down to the picnic ground for program,
6518 speeches, singing, drinking and rejoicing. We barbeque lambs and pigs. Close to our monastery is a children's camp building and then close to the Des Plaines River is a large hall for the people if it rains. We serve beer and Coca Cola.

6519 East of Route 63 is the children's camp building, the church and the cemetery. Our residence is lo-
6520 cated on the west side of Route 63 and it consists of a big frame building to which some smaller parcels have been added. I believe that King Peter was one of the guests attending this particular Fourth of July
6521 celebration. The residence is my headquarters and it has offices of the secretary and abbot of the monastery. There are some small homes for meetings, reception hall and kitchen. Originally this was a farm building. Besides my apartment it has three bedrooms.

Bishops Chrysostom and Visarion arrived around 9:30 in the morning on July 5. They had two or three assistants but the assistants did not come with them.
6522 Somebody brought them from Chicago by car. I was there and the diocesan council was there when they arrived. Seven to 10 members of the diocesan coun-

cil, including our legal adviser, Mr. Stepanovich,
6523 were there. Dr. Sever and Mr. Maravich were there. Several priests, Jovan Marcetich, Reverend Radonovich, and Reverend Dimitrijevich were there. There were about four or five priests. There were some laymen including Mr. Milos Vidakovich. The investigating committee came inside my residence and I
6524 extended greetings to them in the residence. Bishops greet each other by kissing each other on the cheeks. That is how I greeted both these bishops. I told them I could not accept them in the diocesan headquarters because there was not a good space available and that I was afraid our people might make some bad approaches to them. I believe there were some other people on the grounds at that time.
6525 I told them that I would take them to a nice restaurant that we might have dinner together. They said "All right". Mr. Stepanovich and I made arrangements but they refused to have dinner with us. We went to the Rustic Manor in Gurnee by car.
6526 We had one of the smaller rooms for separate parties. I thought to order some juice or something to
6527 drink first and they said "No, we have business first."

They said to me "We came as investigating committee." I said to them "Did you bring the charges with you against me, to present to me for my answer?" They said "We did not, but we want to take your statement in writing before us." I said to them "Listen, I could not say anything before I receive
6528 the charges against me that you investigate." Bishop Visarion was the president and Bishop Chrysostom was the scribe. My conversation was primarily with Bishop Visarion. I asked him "Did you bring me

accusations that I may answer them as is the rule and regulation of our church?" They said "We did not." I said to him "Listen, you impose two penalties upon me already; one penalty for forbiddance, another penalty is removal from diocese; two penalties, without any investigation. So then you could allow me, I would not answer any question until you give me charges for my answer, which I am entitled to have according to our penal code." He said to me "We didn't bring it." Then I said to them "You
6529 may write down what you want; I will not sign." Bishop Chrysostom was taking notes. There wasn't any further conversation between us at that time. Two or three times our legal adviser came over but they said to him "You go out because the bishop, we have to confer with himself."

One of the bishops mentioned to me my bishop's oath. I said to him "My bishop's oath is given to King Peter and the Holy Canons first, and then to the Holy Bishops' Synod wherein is justice. I wrote oath by my hand in old Slavic language, because I was a teacher; I wrote Slavic language in school sometime." Then I said to them "Regarding my oath, that is not a complete subordination without any rights; my subordination is conditional first to the State of Yugoslavia, to the King, then to the Holy Canons, then to the Holy Bishops Assembly when they do justice, canonical rights." They said to me "Never mind, never mind, we have a right." Then I said to them "Don't be like those men who sit powerful in the chair and make the power and rules which you hold. We had that through our history many times but we opposed that." They they finished and we went out. Bishop Chrysostom wrote

something which he showed to me and I said to him "Listen, I will not sign anything until I get charges which I am entitled to have for my response." During the course of the conversation the bishops did not indicate what the nature of the charges were or try to expalin what the charges were against me. I
6531 asked the commission this "You have a letter from the Holy Synod to come in here to ordain Bishop Stefan Lastivica for Eastern Diocese that is dated June 8, and on June 13 later on just with that other duty, you have to investigate me. But your first intention is to establish your own rule—means which you were ordered over there, without any investigation of our people or me either. So then I could not recognize that kind of investigation." I received a copy of a letter of June 8 that they were to consecrate Bishop Stefan. I cannot tell you when I got it. We heard some rumors about the consecration. There
6532 was no discussion about their going to consecrate Bishop Stefan.

We got up to go out and we went together to meet the priests and the people who awaited us in another
6533 room. Then different persons began to ask them questions. Bishop Visarion responded to the questions. He told the people "We have a right to do it and we came rightfully." The priests asked them about the condition of the church over there and how it happened that they were not sent before the suspension and before my removal to the Western dio-
6534 cese. The Bishop Visarion said "That's our right; we had that right." Some people said to them "You are sent by religious committee." They denied that.

Before we left I asked Bishop Chrysostom privately "Why you cannot remain here in America with me and throw away Tito passport and be together

with me here." I did this because he was a friend of mine from long ago. He said he could not do it and I said "Alright, then you go over there to Tito's
6535 hell." I heard that after leaving the Rustic Manor they went to Milwaukee where they issued a declara-
6536 tion on July 6th against me. PX 17 is the communique that they issued and it is contrary to their assignment because they first had to submit their find-
6537 ings to the Holy Synod. In my opinion, based upon my experience as a bishop, my training in canon law and familiarity with the constitutions of the church, the diocese and the penal code this communique was not proper. The assignment from the Synod was to come and investigate and to submit a report. This they did not do. They issued a communique condemning me and they did not have that right. Neither
6538 Bishop Visarion or Chrysostom attempted while I was before them to have a hearing and call in witnesses and to take any testimony. They did not give me the names of the persons who purportedly made
6539 charges against me. They refused to give me the charges. They said that they did not bring the
6540 charges from Belgrade.

VERBATIM TESTIMONY

[6540] Q. What, if anything, did they ask you, did they or either one of them ask you to do at the time you met with them in this room in the Rustic Manor? What specifically did they ask you to do?

A. Yes; they ask me why I am not submitting to the decision of the Holy Bishops Assembly.

I said, "Because it is un-Canonical and against
[6541] our Church rules, regulations and By-Laws."

Mr. Holmquist: All right.

The Court: Now, who asked him that question?

Mr. Holmquist: Q. Who asked you that question?

A. Visarion.

Q. As I understand it, that, in effect, ended your meeting; is that correct?

A. Yes.

Q. Did they offer at that time to continue the matter to a later time and submit the charges to you?

A. They did not.

Q. Did they indicate at that time they were going to continue the hearing to some other date and take testimony from various witnesses, and so forth?

A. They didn't say that.

Q. Did they indicate whether or not they were going to contact the Holy Synod and request the charges, as you had requested at that time?

A. They said they don't need to conduct any witnesses; my refusal to answer to them, that's enough.

ABSTRACTED TESTIMONY RESUMED

They asked me why I was not submitting to the decision of the Assembly and I said "because it is uncanonical and against our church rules, regulations and by-laws." Visarion asked me this question. They did not offer at that time to continue the matter and submit the charges to me. They did not say that they were going to continue the hearing to another date and take testimony.

6544 I did not have an attitude of complete indifference or ignoring toward the investigating commission. I
6545 did not do any laughing or joking toward them. I did not mistreat etiher Bishop Visarion or Bishop
6546 Chrysostom. Neither bishop at the July 5 meeting told me that they had oral instructions apart from

the written directive from the Synod. Many of our people refused to recognize the proclamation from
6547 Milwaukee. Some priests and others followed the proclamation. During the July 5 meeting the bishops complained about my circular against the decisions of the Assembly and I said "It was my duty to defend my people and the rights of the diocese." They
6548 had my proclamation of May 27 with them. PX 74 dated May 25, 1963 is that proclamation.

After I saw the proclamation of July 6th by Bishops Visarion and Chrysostom I made a complaint to the Synod against the investigating committee, PX 84 pages 70 and 71. (Counsel marks pages 70 and 71 as DX 150 and offer it in evidence). (DX 150 is ad-
6553 mitted in evidence). On July 13, 1963 I also pre-
6554 pared a letter to Bishops Chrysostom and Visarion which is on page 72 of PX 84. I did not receive any reply to my letter to the Synod dated July 11, 1963. I did not receive any reply to my July 13 letter to the two bishops. The bishops, after the initial meet-
6555 ing of July 5, did not contact me before they returned to Belgrade. Father Branko Kusonich telephoned me from Cleveland, Ohio. He said that Protodeacon
6563 Tripkovich had given him some suggestions. Father Branko said to me that if I accept the decision of the Synod the charges against me would be dropped. I
6564 said to him "Listen, my dear Father Branko, they impose upon me two penalties already, and the investigating committee proclaimed me unworthy bishop, to be defrocked already by their declaration of July 6 in Milwaukee, how could I accept any proposal by an official, particularly single person, if that proposal is not coming from the Patriarch or Holy Synod?" Other than that conversation nobody from
6565 the investigating committee contacted me. The in-

vestigating committee never sent me a copy of their report. In 1962 Metropolitan Damaskin told me that if I would make peace with the Yugoslav Consul General or Embassy all charges would be dropped. The investigating committee of 1963 did not furnish
6566 me with a copy of their report. I did not see a copy
6567 of the report they made to the Holy Synod. The Court admits DX 151, page 72 of PX 84.

6569 (Counsel marks DX 152, the English of PX 196. Counsel stipulate that the first time PX 196, the Serbian copy of the report of the investigating commission dated July 20, 1963 was seen by Defendants was a week ago last Friday when it was produced by
6570 Bishop Firmilian.) Prior to the Assembly of Bishops meeting on July 26, 1963 I did not get a communication requesting that I attend. From 1940 to 1963 I was formerly advised by letter of all regular
6571 and special meetings of the Assembly of Bishops. Nobody ever asked me to meet Bishop Chrysostom after July 5, 1963. Indirectly, from the German bishops, I got a notification of the decision of the Holy Bishops' Assembly. DX 9, a letter from the Synod to Archimandrite Firmilian dated July 29,
6572 1963, is a copy of the letter that I got from the German bishops. On July 27 the Assembly purported to discharge me from my duty as bishop and to declare the Midwest American Diocese vacant. I had no notification in advance about the July 26 and 27
6573 meetings of the Assembly. I had not received any of the charges against me. Before July 27, 1963 I had not been furnished with any written indictment against me.

I received PX 16A, the indictment at the end of October, 1963. It consists of 37 or 38 pages in typing.
6574 There were no enclosure or attachments to that document. I wrote asking for the charges and empowered three priests to copy those charges and send them to me. PX 19 is the letter from me to the Synod dated November 18, 1963. I had an accident with my car,
6575 damaging my car more than me, but I had my back damaged so I needed a little rest. I was willing to answer this if they gave me the proper time and documents which I could answer. Their reply allowed me only two months more, forgetting that this is a large document and hundreds of witnesses had to
6576 be obtained. I did not have the time to answer all of
6577 this in two months. DX 20A is the letter I received from the Synod. PX 84V is my letter to the Synod
6578 dated January 13, 1964. I also sent a telegram. Since I saw that it was useless for further correspondence I sent the indictment back and entrusted myself to God for my future. That is in my letter of January 25, 1964. To the present time I have not received any charges against me. I heard that the enclosures to the indictment were delivered to court by Bishop
6579 Visarion. I have not seen those enclosures nor read them. I did not receive an invitation to attend the March 5, 1964 meeting of the Holy Assembly. I was not asked by the Holy Assembly to send any representatives or any witnesses to that meeting on March
6580 5, 1964. I had no foreknowledge that a meeting of the Assembly was going to be held on March 5, 1964. I was never formally sent a copy of the judgment and I first saw it some time after Easter. The first knowledge I had that I had been defrocked I received some time after March 5, 1964 and I never received a formal communication directly from the Synod or the Assembly.

DIONISIJE MILIVOJEVICH testified as follows:

Direct Examination continued.

6654 At the time I was asked to become Bishop of the American and Canadian Diocese, there was a procedure that was followed with reference to my ap-
6656 pointment. First, Patriarch Gabriel called me and asked whether I wanted to accept the nomination for Bishop of the United States of America and Canada.
6657 At that time I was already Vicar Bishop assigned to the Patriarch. I told them I would go anywhere as a missionary of our church. The second stage concerns the ceremony where the deacon proclaims "The Holy Archibishops' Synod elected you as a Bishop of the United States of America and Canada and the Royal Deputies confirm that. Will you accept it?" The official answer given is "Yes, I will accept."
6658 This occurs on the evening before the elevation as diocesan bishop. After I arrived in New York I went to Washington and extended my greetings to the Royal Yugoslavian Ambassador in Washington and then I came to Chicago. Upon my arrival here I was met by the Royal Yugoslav Government Consul in
6659 Chicago. Thereafter, I arranged to meet with the diocesan council of the American-Canadian Diocese and was accompanied at that time by His Grace Bishop Firmilian. That Diocesan Council meeting took place in Chicago.

When I first came to the United States I received my salary from the royal Yugoslav government through the royal Yugoslav embassy in Washington, D.C. I received a salary as Vicar Bishop in Yugo-
6669 slavia before I came to this country and that was paid by the Yugoslav government. I received my salary as Bishop of the American-Canadian Diocese

from the royal government until the beginning of 1945 when Tito's government came to power. The royal government was in exile in London during the war. I have not received any salary or income from
6670 the Tito government in Yugoslavia. I have never been offered any salary by the Yugoslav government under Tito. I have not received any portion of my income or salary from the Patriarchate since I have come to the United States in 1940.

From 1945 I received my salary from the Diocesan Council, paid by the Diocesan Council treasurer. The
6671 Patriarchate in Belgrade has not contributed any money toward the maintenance of the American-Canadian Diocese since I became bishop in 1940. They have asked from us contributions to them and we have given contributions. It was on a voluntary basis and it came both from individuals and various parishes. The diocese would forward the money collected to the Patriarchate. The Diocesan Council also made some direct contributions to Belgrade in the years 1940 through 1963 out of the general funds.
6673 I am not familiar with the translation of the indictment, PX 16, since I returned the copy of the Serbian indictment to the Holy Synod at the end of 1963.
6675 Johann Dutchich, mentioned on page 2 of PX 16,
6676 was a poet and ambassador of the Kingdom of Yugoslavia to Rumania during the year and he came to the United States, I believe, around 1940 and died in
6677 1942. PX 153 is a copy of the Almanac of the Serbian
6678 National Federation in 1944. I am mistaken, he died in 1943. A picture of him lying in his casket indicates he died in April 1943.
6679 I know a Priest Dushan Popovich who first came to the United States in 1951 or 1952. I recognize the

signature on DX 154A from Reverend Popovich sent from Germany and dated August 8, 1950. (DX 154
6680 and 154A are offered and admitted with no objec-
6681 tion.) 154 is a true and correct English translation of 154A. I made the necessary arrangements to bring Dushan Popovich to the United States and I accepted him as a priest in my diocese. The first time he came to the United States was in 1951, about one year
6682 after he wrote the letter. He arrived in the United
6684 States some eight or nine years after the death of Johann Dutchich. I never appeared at a gathering in Gary, Indiana with Dushan Popovich and Johann Dutchich because that would have been impossible, one of them was dead nine years before. I do not recall ever appearing at a gathering in Gary, Indiana with Johann Dutchich.

6685 I see on the bottom of page 2 and the top of page three of PX 16 a refrence to a newspaper called the
6686 *Serbian Independence* and an article entitled the Black Dionisije. I have heard that he paper was written in Rome, Italy and sent to the United States. I know Dobroslav Javdjevich. I have met him on several occasions in the United States and he is a lay person, not a priest. His headquarters was Rome,
6689 Italy. I heard that he died. It may have been several years ago. These charges at the bottom of page two and the top of page three are false. This man was a colloborator of Italian fascists and we attacked him many times. Even Churchill attacked him. We said we didn't want any such collaborators among us. (Mr. Holmquist makes the statement for the record that with reference to all these charges about an article in the *Serbian Independence* there is no place, time, names or exact citation of anything with reference to these charges.) I did not at any time ask

6695 Father Dosgitch to go to a Mexican brothel to find me a prostitute as is recited on page three of the indictment. The Dusan Popovich to which this charge is accredited is the same one who is priest in Chicago at Holy Resurrection Church.

6696 I have heard that Dusan Popovich is still alive but very sick. I think he is still a priest of that parish. He is a follower of Bishop Firmilian.

The charge at the bottom of page three and the top of page 4 of the indictment that I attacked and raped some women in St. Paul is false. I know Rev. Ljubi-
6697 sav Djurich who made that charge. I believe I brought him to this country in 1952 and I think he
6698 was a priest before he came here. I arranged to place him in a parish in St. Paul, Minnesota and I had occasion to visit his parish. I did not at any time while visiting his parish ask him to get a young woman to spend the night with me. I was not in St. Paul, Minnesota on the day before Trinity Day in 1953 as charged in page four of the indictment. PX
6699 157, a church calendar, indicates that Trinity Day 1953 was May 24.

6702 (Counsel stipulates that Holy Trinity Day in 1953 was May 24). DX 155A is a letter addressed to me from the St. Nicholas Church in Steeltown, Pennsylvania requesting that I attend their fiftieth anniversary on May 24, 1953. DX 155 is a true and correct translation. DX 156A is a copy of the letter
6704 from me to that church sent on April 17, 1953. DX 156 is a true and correct translation. (The Court admits DX 155, 155A, 156 and 156A).

6705 I attended that fiftieth anniversary celebration. I think I went there by train. I did not fly so I went by train or car. I would have driven there or taken the
6706 train the day before, May 23rd. DX 158 is the souve-

nir booklet I received when I was there. It has been kept in my library. (The Court admit Exhibit DX
6707 157 and 158). (Counsel for plaintiff stipulates that there was a celebration on that date and counsel for defendant withdraws DX 158). On the 23rd of May
6709 I was traveling to Steeltown, Pennsylvania, which is very close to Harrisburg. I spent Trinity Day in Steeltown, Pennsylvania.

6710 (Defense counsel refers to the next charge on page 4 of the indictment beginning "since Bishop Dionisije could go so far"; counsel notes that no place is mentioned in the indictment but the enclosure, DX 58A, indicates that the conversation took place in the Diocesan headquarters at Libertyville, on April 5, 1962.) I have no recollection of meeting Rev. Milin-
6711 kovich at the diocesan headquarters on April 5, 1962. I did not arrange for Evelyn Petrovich to accompany me to California. I did not take a girl by the name of Evelyn Petrovich to California or any other place. Evelyn Petrovich I have seen one or two times in Indianapolis where she is a member of that parish. Rev. Milinkovich was a parish priest in 1962 in Indianapolis. He came here from Greece with some of his friends and I ordained him and appointed him
6712 to Indianapolis. In 1962 some charges started against him and I sent an investigator, Rev. Brkich, who submitted a report that he should be removed from
6713 Indianapolis. In 1963 I believe he chose to follow
6714 Bishop Firmilian and the church parish expelled him. It was at the request of the parishioners from Indianapolis that I sent an investigator. The investigator was a member of the Ecclesiastical Court and Vicar
6715 General of the Western district of our diocese. Father Brkich submitted a written report — DX 159A, and dated September 19, 1962. I recognize

Father Brkich's signature on this exhibit. DX 159
6716 is a true and correct English translation. This report refers to the same priest referred to in the in-
6717 dictment on page 4. There was nothing enclosed with this letter, DX 159A, and it is the complete report
6718 submitted to me. I could be mistaken because there were witnesses and I have that material in my file. I can locate the material.

The Rev. Djurich mentioned on page 4 of the indictment was the priest in St. Paul in 1953. He re-
6720 mained there until 1958 when there were charges against him by the church congregation and we sent a committee to investigate. The parish relieved him of his duties by vote of the members of the parish.
6721 The president advised me of his removal and ouster. DX 160A is the letter I received advising me of the removal of Rev. Djurich. DX 160 is a true English translation. (DX 160 and 160A received in evidence.)

6723 The charge in the last paragraph on page 4 about a beautiful lady is a complete lie. The charge on page 5 about a prostitute in the biggest hotel in Cleveland is false. I don't know where a nightclub is in the
6724 Hotel Cleveland. The next paragraph by archpriest Prostran is false. I first heard from him when he was in a camp in Italy and he came to the United
6725 States where we placed him in Joliet as parish priest. I believe he died long ago, six or seven years ago. He was parish priest in Joliet at the time this controversy began in 1963. This priest was not loyal to me
6727 prior to the controversy of 1963.

6728 The charges attributed to Myomir Dubak are false. He was our priest but affiliated with the Roman Catholic Church in Italy. Our Ecclesiastical Court investigated it and he started to write some letters against orthodoxy so he was defrocked. He was defrocked

by the Ecclesiastical Court of diocese and this defrockment was confirmed by the Holy Synod. (Counsel stipulate that the priest was defrocked and that defrockment is referred to in PX 161 for identification. The Court receives PX 161 and 161A in evidence). The letter dated September 6, 1961 to all church congregations announces the judgment against certain clergy, one of whom is Rev. Dubak. This is the same Dubak mentioned in the indictment. (The witness is directed to look at page 5 of PX 16A, the quotation which begins "but, it could not be expected that taking in family sanctity . . ."). I have compared the quotation in Exhibit No. 16A with a quotation in DX 161C on page 2. The only difference between the quotations is one is signed Dr. Silasky and the other is signed Silaksy. 161A is a true and correct English translation of 161C. Dusan Silasky was legal adviser to the diocese until 1948. He wrote some articles derogatory to me after 1948 and said he would send a charge to the Synod. Patriarch German was in the United States in 1951. At that time he was secretary of the Holy Synod and I had a conversation with him regarding the charges submitted by Dusan Silasky. Patriarch German told me that Mr. Silasky had sent a large charge with several leaves of pages and they decided to keep it in their files and not to send it. I asked him why he didn't send it to me for my answer and he said don't worry about it. This is the same Dusan Silasky who was quoted in these documents. Dusan Silasky died in 1951 or 1952. (DX 161, 161A, 161B and 161C are admitted without objection.)

The paragraph of the indictment on page 5 beginning "what Bishop Dionisije is outside of residence" is false. I have read the paragraph starting on the

next page and the one that follows after it. The allegations are completely false. Vladimir Milinkovich was abbot of the monastery and lived in our monastery until 1962. He submitted an application and returned to Yugoslavia. I never chased him out of the monastery. I received DX 162, letter dated June 2, 1961, from Abbot Milinkovich. I recognize his signature. He was 80 years old at the time and he did return to Yugoslavia where he died. (Court admits 162A and the translation 162). DX 163A is the decision releasing Abbot Milinkovich from his duties given over my signature June 6, 1961. 163 is a true and correct English translation. (DX 163 and 163A are admitted.)

I made a statement similar to those quoted on page 6 of the indictment, but this was before Droboslav Jevjevich, not Dusan Popovich. He said to me "we have to cut your legs and you should not travel so much" and my answer to him was "Tito wants to cut my head, he wants to cut my legs, somebody wants to cut me something else. Who knows what?"

I am ashamed at the Holy Synod would believe that I said the statement in the next paragraph. I never said that. (Defense counsel notes that no time and place are mentioned on page 6 of the indictment but that the enclosure, 164, 164A, 164B, and 164C indicate a date of May 30, 1962.) (The Court admitted 164, 164A, 164B and 164C). I do not recall making the statement in the Slovanian Hall in Waukegan quoted at the bottom of page 5 of PX 16. (Defense counsel notes for the Court that the statement comes from the unsigned enclosure, DX 61).

I did not make the two statements quoted at the top of page 7 of the indictment. I did not make the statement about buttocks which is in the next para-

graph, page 7, before a lady. I never made the next statement about being a live person.

The next paragraph which refers to Dusan Silasky refers to the same man who was the lawyer that died in 1951 or 1952.

He died sometime after 1948 when he was discharged in 1952. I know the circumstances of his discharge as legal counsel. He became legal adviser
6751 for the Council of General Tito's government in New York and we did not like that. He was replaced by the present legal adviser, Mr. Nick Stapanovich. He started to write against me after he was discharged.

MILAN D. BRKICH, (called on behalf of the Defendant) testified as follows:

Direct Examination.

6754 My name is Milan Brkich and I live in Joliet, Illinois. I am the parish priest at St. George Serbian Orthodox Church and have been there since Septem-
6755 ber 1, 1969. Prior to that, I worked in the diocese office in Chicago. I had the title of secretary to the church council of the United States of America and
6756 Canada and secretary to Bishop Firmilian. This large church council is made up of the council of each individual diocese and the Bishops and the three
6757 vicor generals. Each of the councils at the diocese level is made up of members selected at an annual meeting and each council consists of two priests and three laymen. The general church council consists of a total of 21 members. The church council of the whole United States of America and Canada uses the constitution of the former diocese. The church council was set by the peoples assembly held in Detroit

in 1964 which provided temporary provisions for
6759 such a body. There is no provision in the constitu-
6760 tion for such a body. The assembly or Sabor in 1964 which authorized the organization of the council was made up of clergy and church congregations and the three Bishops. The three Bishops are Firmilian, Gregory and Stefan, although he has since died and been replaced by Bishop Sava.

6768 These are the three dioceses that participated in the Sabor in Detroit in 1964. They are autonomous in internal affairs as far as the administration is concerned. Each Bishop has jurisdiction only within
6769 his diocese. I have examined DX 165A, 166A, 167A and 168A which are four issues of the newspaper
6770 called the American Srbobran and can state that the articles in them were written by me upon my return from a trip to Yugoslavia in the year 1962. The articles deal with what I saw and witnessed while there, including visits to various churches throughout Yugoslavia and my audience with the Patriarch. I don't believe the articles contained references to the
6781 conversations with the Patriarch. The proclamation that was issued by Bishop Vasarion and Bishop Chrisostom on July 6, 1963, was drafted and pre-
6782 pared in my parish in Milwaukee. I took no part in the preparation. I first became acquainted with Father Dushan Vavich in 1949 when I sent him affidavits to bring displaced persons to the states. I had
6783 not known him prior to that. When he arrived in this country, I found work for him in Milwaukee. I heard after his arrival that he had finished the Theo-
6784 logical College in Belgrade, but had not been ordained. To my knowledge, once he arrived here he
6785 no longer pursued any Theological studies. I believe Father Vavich was ordained in the middle 1950's, but at that time he was living in California. I did

not participate in his ordaination. During the period in which Father Vavich lived in Milwaukee, I,
6786 on two occasions, saw him have fainting spells in his own home.

6787 Prior to the ordaination of Father Vavich I had formed an opinion concerning his health. It was my
6788 opinion that he was in poor health suffering from epilepsy. I based this opinion on the observations of the seizures which had taken place in front of me. I communicated my belief to Bishop Dionisije prior
6789 to the ordaination. After the ordaination I had no further contact with Father Vavich. At no time after the ordaination in 1955 did I either orally or in writing communicate with the Bishop Dionisije to register any objection to Father Vavich's being or-
6790 dainer as a priest. I believe I once talked to Bishop Dionisije about Father Vavich health after he had
6792 had a seizure at the alter itself. At no time in conversation with Bishop Dionisije did the Bishop indicate to me that he had done any checking on the medical condition of Father Vavich. After Father Vavich left California I heard that he went to Eu-
6793 rope. I believe this occurred in 1959 or 1960. I do
6794 not recall if during my last appearance in the Court room here in Waukegan a year ago I was ever in the company of Father Vavich and Bishop Firmilian.
6796 The incident in which Father Vavich was charged with molesting or fondling an eleven year old child
6797 occurred in Milwaukee. I know nothing from my personal knowledge of the events that took place in Sacramento, California. I told Bishop Dionisije
6798 about this incident prior to the ordaination. At no time prior to August 2, 1963, did I give any written statement to anyone concerning the facts on Father
6800 Vavich. I do not recall when Mr. Snyder was exam-

inging me back on October 15, 1969, being asked these questions and making these answers: "Now do you know Father Dusan Vavich?" ANSWER: "Yes". QUESTION: "Is he the gentleman who was present in the courtroom yesterday and sat behind you in the
6801 jury box?" ANSWER: "Yes, he was".

6802 Although I probably answered those questions in that way, I do not recall it. I have examined DX 169 purporting to be two letters and can state this is the first time I ever saw them.

6803 I am acquainted with Father Vladimir Malinkovich. I recall that in 1962 I was a member of the Ecclesiastical Court and Vicor General for the middle-west portion of the diocese serving under Bishop Dionisije. I recall that at the request of Bishop Dionisije I went to Indianapolis, Indiana to investigate Reverend Malinkovich and the difficulties he was having in the parish there. The DX 159A is a letter that I wrote to Bishop Dionisije dated September 6, 1962, concerning Father Malinkovich and it bears my signature.

6804 DX 158B is an enclosure which I sent with the other document, 159A. As a result of that investigation, it was my recommendation that Reverend Mal-
6805 inkovich resign as parish priest at Indianapolis. I do not recall whether he resigned. I am also ac-
6806 quainted with Father Timothy Tepsich, who was a priest serving in the American-Canadian diocese in the late 1950's. He left the monastery and went, I believe, to the Episcopal School. He thereafter became the rector of the All Souls Parish of the Episcopal Church here in Waukegan. I served on an Ecclesiastical Court of the American-Canadian Diocese
6807 that was involved in the defrocking of Father Tepsich. To the best of my knowledge, he was under a

suspension, but was not really defrocked. The first step in a normal procedure for defrocking a priest is an investigation and hearing before a court. After the Court makes a recommendation for defrockment several other steps are required. To the best of my knowledge the procedures were never completed and the defrockment never went through. I was assigned to collect evidence and investigate the priest but was never able to find him as he was moving around. All of this occurred in the late 50's or early 60's. I have seen Father Tepsich since then and, as a matter of fact, he has since 1963 served as a priest at the Holy Resurrection Church in Chicago. For some period of time since 1963, Father Tepsich has served under Bishop Firmilian. I am acquainted with Momcilo Djujich. He lived in Gary, Indiana, and was living there in 1962. At no time since then has he been an active priest. I did not, at any time between my arrival in the United States and 1963, flatter Bishop Dionisije.

Cross Examination.

In the letter from Momcilo Djujich addressed to Metropolitan Damaskin dated December 26, 1962, in which he accuses me of being a flaterer of Bishop Dionisije, Djuijich is referred to as a Reverend. He was also known by the title Vojvoda which supposedly means a military commander of sorts. It is a military honor generally conferred on heroes. Reverend Djujich is active in a group of Chetniks here in the United States as president of the Chetnik Organization. Father Tepsich was placed under suspension immediately when court proceedings began and later that suspension was removed by Bishop Firmilian. I recommended an investigation of a priest, Father

Malinkovich, because he and his wife were overly enthusiastic in wanting to accomplish more than was practical and consequently made errors which made their continuation in their parish impossible. After my investigation, I recommended for his good and the good of the parish he be assigned somewhere else. To the best of my knowledge he was reassigned from Indianapolis to Pittsburgh, Pennsylvania in 1964 or 1965. I have examined DX 5A which bears my signature. I was asked by the Investigating Commission composed of Bishop Hrizostom, Bishop Vasarion and the deacon who accompanied them about a Reverend Dusan Vavich. I witnessed Father Vavich's fainting spells and recommended that he seek medical assistance on several occasions, but when he declined, I didn't press him. I do not believe Father Vavich is presently under the jurisdiction of Bishop Firmilian, Sava or Gregory. The last time I heard anything about this man's professional career he was under the jurisdiction of Bishop Dionisije. I have examined PX 30 and can state that I have seen this document before and that it is a translation of the constitution of the American and Canadian Diocese. Also, the three new diocese are acting on this temporarily. This is a constitution of a religious body not a corporation.

The general council over the three diocese contains vicors who are deputies to the Bishops.

VERBATIM TESTIMONY

[6831] Q. At the sabor of 1964 held in Detroit, Father were you present?

A. I was.

Q. And in what capacity were you there?

A. At that time I still was vicar to the Bishop Firmilian for the Middle West Diocese.

Q. And were you from any church at that sabor?

A. At that time I was in Milwaukee, Wisconsin, St. Sava's.

Q. Were you a delegate from St. Sava's?

A. Well, priests are not allowed, regardless whether they are with a parish or not.

Q. Is that a rule or regulation?

A. Yes.

[6832] Q. Where is that stated?

A. In the Constitution.

Q. Constitution I previously showed to you?

A. Right.

Q. Do you know, Father, of your own knowledge, approximately how many of the churches in the United States and Canada in 1964 of the Serbian Orthodox Church were represented at that sabor?

A. Objected to. This is certainly beyond the scope of the direct examination.

Mr. Karacic: They went into the sabor of 1964 and asked all kinds of questions how they were elected, how many from each diocese and—

The Court: Is that not correct, Mr. Holmquist?

Mr. Holmquist: No, it isn't.

The Court: I beg your pardon?

Mr. Holmquist: It is not correct. . I merely asked him about the—how the council, the Church Council that he referred to, how that was—what was the composition of that. He testified that it consisted of three laymen, two priests from each diocese, the three vicar generals or whatever they call them and the three bishops. I didn't go into except for the fact that there was a sabor held in 1964, I didn't ask anything about

[6833] who attended it or how it was composed or anything else.

Mr. Karacic: I believe Mr. Holmquist even asked about resolutions that were passed there and how this council was created from the sabor and who was in attendance and I am really asking at that time what percent was present at that sabor, if this witness knows.

Mr. Holmquist: To have the record straight, I asked this gentleman when he mentioned something about the Constitution, the three diocese were operating under this Constitution. I directed him and I said is there any provision in the Constitution of the American-Canadian Diocese, that is Exhibit 30, which provides for a—this Church Council he had previously testified to and he then in response to that question volunteered that no, it was not in the Constitution, but that at a sabor held in Detroit in 1964, certain resolutions were passed creating this Church Council. Now, that's the way it came up. I didn't go into anything about how the sabor was called, who attended it, who represented it or anything else. He volunteered this in response to my question as to whether or not the Church Council which I did ask about as to how that was composed by what authority was this Church Council formed, was it in the Constitution and he said no, it was created at the sabor and that sabor was

[6834] held in Detroit in 1964. Now, that's how we got this to the sabor, and if I—

Mr. Karacic: Court please, at the beginning of the testimony, could we ask the court reporter to look at this? I have several questions or notations on the sabor here in '64 and I can only get them on my notes from the questions and answers asked at that time.

The Court: Well, I have some notes also that, as I have said previously in the trial, I do not rely on too

literally or fully, but my ruling will be that your reference, Mr. Karacic, must be limited. Now, do you recall whether there is a pending question?

Mr. Karacic: Yes, there is.

The Court: Do you recall what it is?

Mr. Karacic: Yes, I do.

I asked him in this sabor did he know how many churches—Serbian Orthodox Churches in the United States of America and Canada were present at attendance.

Mr. Holmquist: To which I objected because it's just—it's way beyond the scope of the direct examination as to how it was constituted or anything else.

Mr. Karacic: I remember Mr. Holmquist asking where did these churches come from and I remember
[6835] also the witness saying from the territories which were part of the new dioceses and I am merely asking him now how many churches in the United States and Canada—

The Court: I will allow that question and answer.

The Witness: To the best of my recollection, there were 47 parishes.

By Mr. Karacic:

Q. Forty-seven?

A. I believe so.

Mr. Holmquist: Are you saying 47 or 27?

The Witness: Forty-seven.

By Mr. Karacic:

Q. Do you know how many parishes of the Serbian Orthodox Church there were in the United States and Canada in 1963?

A. In 1963, we had 72 parishes.

Q. If you know, Father, were all these 47 parishes originally under the jurisdiction of the American—Canadian Diocese?

Mr. Holmquist: Objection.

The Witness: Not all of them.

The Court: Just a moment.

Mr. Holmquist: He's answered it, let it stand.

The Witness: There are some parishes that were
[6836] created.

Mr. Holmquist: He's answered the question.

The Court: Just a moment, you have answered.

By Mr. Karacic:

Q. Approximately of the 47 how many were originally under the jurisdiction of the American-Canadian Diocese?

A. Forty-four I believe.

ABSTRACTED TESTIMONY RESUMED.

6835 At the Detroit Sabor there were fourty-seven parishes represented. In 1963 the Serbian Orthodox Church had 72 parishes in the United States and Canada. Of the 47 parishes attending the Detroit Sabor
6836 not all of them had been in existence in 1963. I believe 44 of them who attended were original parishes.

DIONISIJE MILIVOJEVICH, testified as follows:

Direct Examination.

6863 (Council stipulate that PX 47B is Minutes from the Diocesan meeting of June 2, 1940 in the handwriting of Bishop Firmilian.)

6864 DX 47B is dated July 2, 1940 instead of June 2. These are Minutes of the first Council meeting I had upon my arrival in the United States. It was held
6865 in Chicago in the Church of Holy Resurrection. My

examination of the Minutes helps refresh my recollection as to where it was held in Chicago. I was ac-
6867 companied by the Secretary of the Dioceses which I appointed, Reverend Firmilian, Now Bishop Firmilian. The legal counsel for the Diocese was present, Mr. Dusan Silasky. There was a conversation with Attorney Dusan Silasky prior to entering the meeting. All other members of the Council were present, and Reverend Firmilian was there also. Silasky said "There is an objection for the appointment of the Bishop Dionisije as our Bishop, and that was sent to Belgrade before his arrival. We have to decide first whether we are accepting him as Bishop or
6869 not." I said to Mr. Silasky "those are the papers, official, which I brought with me, and if you don't accept them, I will return from where I came." I brought the appointment of the Royal Deputy which says "Bishop of America and Canada" and my ordination as Bishop and my passport. Silasky said "how about if you leave for a few minutes and we will speak." Bishop Firmilian stayed inside while I left for about ten minutes. Then Mr. Silasky came out and said "we are accepting you as Bishop."

6870 I then called all the members to stand up and called for the prayers to be read and the agenda for the meeting to be adopted. I told Bishop Firmilian, as Secretary, to write the minutes, and they started. I presided at the meeting. When Mr. Silasky asked me to step out and let them decide as to whether or not they would accept me. I was aware that this was customary in the Serbian Eastern Orthodox Church.
6871 This had happened with Bishop Platon who was nominated to be Bishop of Benja Luka, and people from the Diocese started to send delegations. The

Diocese of Banja Luka is located in Bosnia, but delegations continued to the Patriarchal Palace in Belgrade. This happened in 1929 while I was in Belgrade as Vicar Bishop to His Holiness, Patriarch
6873 Gabriel. Bishop Platon was rejected and he stayed out for a whole year without a Diocese until the Patriarch made a clearance with the Government and the Government finally approved his appointment to
6875 Banja Luka. One of the delegations was a five or six Priests from Banja Luka and other was a mixed delegation of Priests and laymen. I led these dele-
6876 gates to the Patriarch myself. There is also the example of the present Bishop of Sabac, Jovan. Sabac is in
6877 Serbia close to Belgrade. In 1958, Bishop Jovan was Nephew of Bishop Nicholai. The Communist Government refused to confirm him as Bishop of Sabac. Patriarch German told me in a letter "finally we succeeded in placing our Bishop Jovan in Sabac." (The Court grants a Motion to Strike the previous testimony relative to the action of the Government and defense counsel offer it as an offer of proof, and the offer is refused.)

6886 I prepared PX 119, a pamphlet entitled "Creation of the Serbian American Schism by the Serbian Patriarch German and its Bishop Council". The in-
6887 troduction has the date May, 1968 and I prepared it after I got the Judgment. I did not prepare it in Answer to the Indictment and the Judgment. Purpose was to show how the Serbian Patriarch and his Bishops' Assembly made the schism in America
6891 and Canada. (Counsel marks PX 119 as DX 170.)

6892 I may have made a statement to my wife similar to the quotation on PX 16 on Page 7, when she was alive in 1925 and 1926, but later on I have never made

a statement of this kind. I never attacked Mile
6893 Radakovich's daughter as charged in the Indictment. I knew Mile Radakovich and I saw him many times. I was not at his home many times, but he came for meetings as a member of the Diocesan Council. Once he was Treasurer by our Diocese and other times a member of our Diocesan Council. He was never a
6894 Vice-President. At the time of his death in 1961 he was serving on the Council.

I know of the Reverend Prostran who made this charge. He died four, five or six years ago. I never attacked the daughter of Branko Pekich as charged by Reverend Popovich in the Indictment. Branko Pekich was Secretary to Serbian Federation Benevolent Association. He lived in Pittsburgh. I visited
6895 his home only once in 1945 when we were preparing ourselves to go to San Francisco to attack Tito's
6896 delegation in the United Nations. I haven't had any conversation with Mr. Pekich since he went to Florida and became a member of our Church congregation there. I do not know whether he recognizes me or Bishop Firmilian.

6897 I have read the next paragraph, an unsigned accusation, beginning in the Indictment "once Bishop Dionisije forgot himself during celebration . . ." I
6898 attended the celebration on St. George Day, May 6, 1958 I did not make any improper advances toward Mr. Vadakovich's ..... Mr. Vadakovich did not throw me out of the house. At the present time Mr. Vadakovich is secretary of St. Sava Church Congregation in the Monastery. I never attacked Ann Pavlovich as
6899 is charged in the Indictment. I know Mioderaj Andrich. He returned to Yugoslavia three or four years

ago. (Counsel notes for the Court that there is no time stated either in the Indictment nor the enclosure, and also that the enclosure is unsigned.) The incident described in the Indictment in the next paragraph which starts "Reverend Dusan Popovich of Chicago read one letter . . ." did not take place at the camp building at the Monastery or any other place. (Counsel notes for the Court that the Indictment enclosure states that Mr. Rakich's story came from a Holy Confession.) There is a penalty provided in the Serbian
6901 Orthodox Church for a priest disclosing what anybody else tells him in a confession. Milan Rakich,
6906 mentioned on page 8 of PX 16, was a priest in St. Louis. He left that parish in 1954. He went to Yugoslavia and remarried there. He has not been a parish priest in my Diocese in 1954. The charge at-
6907 tributed to Mary Dritto on page 9 is false. I did not receive any notice that a hearing was being conducted in July of 1963 in Springsboro, Pennsylvania. I did
6911 not get any notice that testimony was to be taken from Mary July 27, 1963. (DX 171 and 171A are admitted in evidence.)

6918 The charge on page 6 concerning Reverend Glocar is false. This is the incident that Mr. and Mrs. Pavolich testified to a couple of weeks ago. Someone else also testified. (Defense counsel notes that the Indict-
6919 ment alleges that the statement is given under oath and the enclosure, DX 172 and 172A, indicate that the charge is not given under oath.) (The Court ad-
6923 mits DX 172 and 172A). The charge about meeting
6924 Mrs. Dimitrijevich in the parking lot is false. I did
6925 attend a slava at the home of Mr. and Mrs. Gajich.
6926 (DX 173 and 173A, the enclosure, is admitted into
6927 evidence.) I did not request Father Sava to sing

shameful songs as is charged at the bottom of page 10 of PX 16. I did not make the statement that I am a very bad person, but toward Mrs. Polich I do not think that way because I consider her my sister. (Defense counsel notes that the persons allegedly present at the time were not mentioned in the Indictment but they are mentioned in the enclosure, DX
6931 62A.) (The Court admits DX 62, 62A, B, C & D.)
6932 The allegations of my conduct toward Mrs. Stojanka at the bottom of page 10 of PX 16 are false. I have been in the home of Reverend Marcetich on many occasions but I do not remember the occasion May 6, 1960. I saw Stojanka Kovacevich a couple of times. I have read the paragraph on page 11 of PX 16, beginning "on November 6, 1960 . . ." Her hus-
6933 band is a priest. She came to our residence in Libertyville asking for some financial assistance. I believe she brought her children, two or three. I said to her that I would provide some collection for her and I said to her "why you have so many children?" She
6934 said "what can I do?" I said "some legal ways of preventing conception." She said nothing. She received our help which we collected about $100.00 and she went home. There is no rule in the Serbian Orthodox Church with reference to prohibiting the use of any type of contraceptive device by women. I told her to go to a doctor and that I was not a doctor to recommend any kind of medicine or use.
6935 The charge in the next paragraph, PX 16, that I raped Stojanka Kovacevich is not true. I have not met that woman anywhere except when she came to our Monastery for help. I have read the bottom of page 11 and also the first full paragraph at page 12 of
6936 PX 16. I was not present when these statements

were made. I heard that he made these statements after I left. (PX 174 and 174A, report from the Priest Convention at South Bend, are admitted in evidence.)
6938 PX 175A, a letter dated January 4, 1963, from Metropolitan Damaskin and Bishop Nikanor was received by me from Yugoslavia. PX 175 is a true and correct English translation of that letter. (DX 175 and 175A
6939 are admitted.)
6940 The charge that I had sexual relations with a beautician in Monroe is false. The charge that I slept
6941 with Stana Boduljak is false. It is also a lie that I gave Frances Deodosich a two-story building in Waukekgan worth more than $20,000. I never gave her any dresses or jewelry worth in value over $10,000. The Reverend Maladen Dukichevich is a person I knew in Yugoslavia and he has never been to this
6942 country. (Defense counsel notes for the Court that the time of the occurrence is not mentioned in the Indictment or the enclosure.) With reference to the paragraph at the bottom of page 12, I never had an affair with Rada Milentijevich. I saw her a couple of times, first in the house of Reverend Milan Burkich in Milwaukee. This lady was born in Yugoslavia. As
6943 far as I know Very Reverend Burkich intended to marry her for some of his relatives. I saw her a sec-
6944 ond time in the house of another man in Milwaukee, Mr. Strasnar, where she was working as a maid. She came to our Monastery during this summer also. At that time she told me that she was going to the Chicago University as a student. I believe some other
6945 girls were with her. One of the girls was from India, one from Pakistan, one from Egypt, and one from Italy. One girl was a follower of the Aga Kahn. Stojan Lazarevich was taking a vacation in our Mon-

astery during the summertime and he spoke with them an hour or two and they went. I saw her once more on a Christmas Eve. She came with two or three
6946 girls and I had company in our house. She started to explain to other students what our Christian customs were. I don't know where she is now. I know she wanted to travel to Europe and after that she left for Europe and I didn't see her anymore. I never bought her an automobile. I have helped many stu-
6947 dents and I gave her once $100 or $150. She was then going to school at the University of Chicago. (Defense counsel refers to page 13 of the Indictment. The paragraph regarding the purchase of automobiles and a trip to California.) I never bought her a Chev-
6948 rolet or a Cadillac. I did not travel with her to California or anyplace in the United States or Canada. I did not buy her 15 acres of land in Niagara Falls. (Defense counsel notes a witness was mentioned in the enclosure who is omitted from the Indictment with respect to this charge.) All of these charges on page 13 having to do with Rada Milentijevich are false.

With respect to Milka Suka on page 14 of the Indictment, I sold property to her and her son. I did not give any property to her. Mrs. Suka served our Monastery as a cook and lived at the Monastery with
6950 her son. He became a priest in my Diocese. He is a
6951 priest in Steubenville, Ohio, and he no longer recognizes me as Bishop. I sold some property to Mrs.
6952 Suka. DX 176 is a true copy of the Deed, the grantors being Veron and Margaret Wells and the grantee being myself. DX 177 is a Trust Deed showing me as grantor and J. H. Clendenan as Trustee. I executed this Trust Deed when I purchased the property. The consideration was $8,000. I believe I paid $16,000

or $18,000 for the property. The price could have been $14,000. (Defense counsel notes that revenue stamps on the Warranty Deed indicate the sum of $15.40.) DX 178 is another Trust Deed showing con-
6955 sideration of $1,000 that I executed as a second mortgage on the property. DX 179 is a Xerox copy of the Warranty Deed dated February 28, 1952, with me as grantor and Milka Suka and Reverend Walter Suka, her son, as grantees. (Defense counsel notes that the Deed indicates the property is taken subject to the two Trust Deeds that are introduced as Exhibits 177 and 178.) I did not charge her any more for it than
6956 what I paid for it. She undertook to pay off the two mortgages. I received some cash at the sale. I do not remember the exact amount that I paid for it. I sold
6957 them the property for the same amount of money that I paid for it. (Court admits DX 176, 177, 178
6958 and 179.) Mrs. Suka was cook at the Monastery until 1948. She then left the Monastery with her son and until 1952 was living in Farrell, Pennsylvania. She died a couple of years ago. I do not know if she
6959 was residing on the property I sold her at the time she died. Her son is not living at those premises. I did not throw her out as charged in the Indictment on page 14. She wanted to go with her son.

Reverend Radovanovich is our priest from Racine,
6960 Wisconsin. He resided in the Monastery from 1951 until 1952. He could not have thrown Mrs. Suka out of my residence because he came to the Monastery two or three years after she left. I never chased Reverend Balach out of the Monastery because of Mrs. Suka. Reverend Balach is the same Bishop Balach who is now Bishop of Australia. None of the
6961 allegations in the Indictment about Milka Suka are true.

I do not know anything about the material in the first full paragraph, on page 15 of the Indictment starting "one distinguished Arch-Priest is writing."

6962 I know Mitrofan Kresojevich, but the charge on page 15 is not correct. He is a priest and he was in Arizona in 1953. I don't know whether he had homosexual charges but he had some difficulties with the police from Phoenix. This priest came to the Monas-

6963 tery in 1953. I had a conversation with him. He told

6964 me the church congregation of Phoenix, Arizona relieved him from duty. He said that they charged him with illegal connections with a boy. I received a letter from the church congregation. He brought a letter

6966 from the church congregation which said that the church congregation relieved him on account of the charge that he had connection with some boy, but the police or general attorney of that place said that he would not put him in jail but send him to the Bishop for correction. I had a conference with him at Libertyville. He stayed at the Monastery for one or

6967 two years. I would see him every morning for breakfast or every day for dinner, or everytime we were in the church. I did not discover any incidents similar to the one that had occurred in Arizona while he was in the Monastery. He made a confession and gave me an oath that he would not do it again. After a

6968 period of a year, I transferred him to the Shadeland property to care for the old people. This was 1955 or 1956. He took care of the aged home, organizing inside and supervising the personnel. He stayed at Shadeland for three years. Then I sent him to a parish, Galveston, Texas where he stayed for two or

6969 three years. While he was in Galveston I did not have

any further notice of any further difficulty. He was then placed as our Parish Priest in Elizabeth, New Jersey where he is now. He has been in Elizabeth two years, performing the duties as Parish Priest. He has served in one capacity or another in my jurisdiction since this incident occurred in 1953, a eriod of 17 years.

I don't know anything about the next charge on page 15 of the Indictment. With reference to the next charge about three Monks as known pedarist. I knew

6971 about one Monk which I sent Regina, Saskatchewan, Canada and he was a pedarist. He was condemned by the Court and we defrocked him. This occurred about six years ago. I don't know who these three people are that are being referred to. (De-

6972 fense counsel marks DX 180, the Indictment enclosure from which the charge is taken and quotes the following language "three of these remaining Monks are known as homosexuals and closet operators of Mr. Dionisije who actually, along with him, managed this Diocese in whom he proposes to the Holy Synod for his future Bishop Vicars."

7487 BISHOP FIRMILIAN OCKOLJICH testified as follows:

Direct Examination.

Under Section 60 of the Civil Practice Act.

My name is Firmilian Ocokoljich and I reside presently at 8347 West Summerdale, Chicago, Illinois. The Diocesan Office of the Midwestern American Diocese is presently at 5701 North Redwood Drive in

7488 Chicago. I am presently Bishop of the Midwestern

7489 Diocese of America. DX 190 accurately sets forth the present hierarchy of the Serbian Orthodox Church

here in the United States as it is related to the Patriarchate in Belgrade. On the level which shows the Holy Bishop's Assembly and the Holy Bishop's Synod, on the lefthand side is a broken line which shows the Patriarchal Council. I do not know if the Patri-
7490 archal Council has convened since 1963 when I became a Bishop. I did not receive any notice from the
7491 Patriarch regarding it. I believe it is correct to state that to my knowledge there has been no session of that Council for seven years. On the next level on the chart is shown the Western American Diocese and Bishop Gregory, the Eastern American Diocese and Bishop Stefan, and the Midwestern American Diocese and Bishop Firmilian. Directly above that is the Serbian Orthodox Church in the United States of Amer-
7492 ica and Canada. That is the religious body of this country. The Serbian Orthodox Church is one and undivided. The Church in the United States of Amer-
7493 ica is a religious unit of the Mother Church in the old country. This unit utilizes my office in Chicago
7494 and has stationery under the title of the Serbian Orthodox Church in the United States of America and Canada. I believe that the three Bishops are the head of that organization. I was elected and am the
7495 Bishop of Midwestern American Diocese. It is an autonomous diocese in and of itself, as are the Eastern American-Canadian Diocese and the Western
7496 American Diocese. The three of us acting together act for the Serbian Orthodox Church in America and Canada and there is no one Bishop who is head of the organization known as the Serbian Orthodox Church in the United States of America and Canada, a religious body. There are in addition to the American Dioceses, other dioceses mentioned in the Con-

stitution of the Serbian Orthodox Church; for example, the Diocese of Budimlje, which was part of the Serbian Orthodox Church in Rumania and at the present time we have a Diocese for Western Europe
7497 and Australia. Beneath the level where the Western, Eastern, and Midwestern Diocese are shown on the chart, is a Diocesan Church National Assembly and Diocesan Ecclesiastical Court. Each of the dioceses has a Diocesan Ecclesiastical Court of its own, but they do not each have a Diocesan Church National
7498 Assembly. Each of them has a Diocesan Council and a Diocesan Executive Board. This chart is in error when it indicates that each diocese has a Church National Assembly. Each diocese has its temporary
7499 Diocesan Council, Diocesan Ecclesiastical Court, Diocesan Executive Board, Religious Education Section, and the Financial Executive Session is run by the Diocesan Council itself. Each Diocese also has a secretary as shown on the chart. The Serbian Orthodox Church of the United States of America and Canada, a religious body, had a secretary in the beginning for the so-called Diocesan Church Council, and the secretary was Father Milan Brkich. The temporary secretary at the present time is Father Velimir. I
7500 have a Diocesan Ecclesiastical Court of the Serbian Eastern Orthodox Diocese for the United States of America and Canada. This is not a different body
7501 than the Serbian Orthodox Church in the United States of America and Canada of which I am the temporary administrator. There is no Ecclesiastical Court for the Serbian Eastern Orthodox Church of the United States of America and Canada. There is
7502 no single Bishop who is the head of that religious

body. I am familiar with DX 189 which is a calendar of Serbian Orthodox Church in the United States of America and Canada.

7504 (Offer of proof.) This calendar purports to show, as of 1965, the church congregation in the Midwest-
7505 ern American Diocese. The first church listed in Illinois is Bellwood, St. John the Baptist Serbian Orthodox Church. It is listed there because we have registered here those members who accepted and recognized the decision of the Mother Church, but the church is actually on the other side. The church congregation as a matter of fact, located at Bellwood, does not recognize me as bishop, but rather Bishop Dionisije. The next one listed in Chicago is Holy Resurrection Serbian Orthodox Church which in fact split in 1963 or shortly thereafter from what was known as Holy Resurrection Serbian Orthodox Church, and they have now evolved the Holy Resurrection Serbian Orthodox Church Cathedral, the old Holy Resurrection Serbian Orthodox Church, St. Nicholas Church, and St. Stefan Church. I have
7506 heard that there were three additional churches formed from the membership that split from Holy Resurrection Church. The next one listed in South Chicago is St. Archangel Michael's Serbian Orthodox Church which split, and there are now two churches, one that recognizes me and one that recognizes Bishop Dionisije. The next church on the list shown in Waukegan is St. Nichols Serbian Orthodox Church which was actually organized some time in the beginning of 1963, but not consecrated until Novem-
7508 ber of that year. I believe that it would be fair to say that the church was not in an organized existence in May of 1963, but it had been approved by the former Bishop Dionisije. The next one listed is in

Gary, Indiana which is St. Elisha Serbian Orthodox Church, and it did not exist in May of 1963. This Church was organized by members of the St. Sava Serbian Orthodox Church in Gary who recognized the decision of the Holy Assembly and split from that church and formed this new one which pays allegiance to me. There is still a St. Sava Church in Gary that recognizes Bishop Dionisije. The church listed for South Bend, Indiana is St. Peter and Paul Serbian Orthodox Church and it is still in the pro-
7509 cess of litigation, so there are some people there who recognize me, and some that recognize Bishop Dionisije, and that dispute hasn't been settled as yet, but a great majority recognize the decision of the Holy Assembly. St. George Serbian Orthodox Church in Indiana Harbor is divided, but the people who recognize Bishop Dionisije are in possession of the church
7510 building. This is also true of St. Nicholas Serbian Orthodox Church in Indianapolis. Again this is true of Holy Trinity Serbian Ortohdox Church in St. Louis, Missouri. I do not know if there are two churches in Kansas City. This is also true of the
7513 people in Galveston, Texas, who control the church building and recognize former Bishop Dionisije. St. Lazarus Orthodox Church in Detroit also split at the time of the controversy, but 99% of the people there remained loyal to the Mother Church. Those who left, I have heard, formed some other church organi-
7514 zation. In Duluth, Minnesota, the majority remained loyal to the Mother Church and a rebel group formed some kind of a congregation. So there is one legal Serbian Orthodox Church in Duluth, and another which claims to be a Serbian Orthodox Church. In Hibbing, Minnesota the majority of the congregation

of St. Archangel Michael recognize the authority of the Mother Church and a group who did not leave the church, but I do not know if they formed a new
7515 church. In Omaha, Nebraska, 95% of the people at St. Nicholas remained loyal to the Mother Church, and the other 5% left the church. In Milwaukee, Wisconsin the group which left and did not recognize the authority formed a new church in Cudahy, Wisconsin. In 1963 a church existed in Libertyville at the Monastery. That church is still in existence and recognizes Bishop Dionisije and would normally be included in the Midwestern Diocese. There is also a church in
7517 Ecorse, Michigan which is still in existence and recognizes Bishop Dionisije, and that church would also be within the territorial limits of the Midwestern Diocese. This is also true for a church located in St. Paul, Minnesota, but the congregation divided and those loyal to the Mother Church left. The Church in Racine, Wisconsin was in existence at the
7518 time of the controversy and still exists today, and that group recognizes Bishop Dionisije. Racine is also within the limits of the Diocese of which I am Bishop. (End of offer of proof.)

I recognize DX 191 purporting to be a counter-Affidavit of Rt. Rev. Bishop Firmilian Ocokoljich and at page 4 my signature appears. On page 2 of that document I stated as follows: "the corporation in-
7519 corporated in 1927 and known as the Serbian Eastern Orthodox Diocese Council for the United States of America and Canada is no longer in existence and has been dissolved." I also stated in this Affidavit as former secretary of the Serbian Eastern Orthodox Diocese for the United States and Canada, "a religious corporation duly authorized and existing under the laws of the State of Illinois. I am familiar

with said corporation and its records including its Constitution which has been amended." I also stated
7520 with reference to the Constitution of the Serbian Orthodox Diocese for the United States of North America and Canada, "I have inspected Exhibit #3 of the Complaint and state that it is a true and correct copy of the translation of said Constitution from the Serbian into the English language." I further stated
7521 that I was familiar with the activities of this religious corporation and its frequent contacts with the Patriarch, the Holy Synod and the Holy Bishop's Council in connection with canonical, hierarchical and religious activities; that missions were sent from time to time from the religious corporation to those bodies; requests were made by religious corporation to those bodies from time to time relating to the appointment of priestly officers and the items above specified and said bodies communicated answers and other orders and information to religious corporations records which are in the possession of defendants herein. This Affidavit which I signed was prepared on or about the date it bears, April 18, 1964 and was filed
7522 in this case at about that time, and for the record appears at pages 232 and 235. I was elected Bishop of the Midwest American Diocese on 27 July, 1963 at the same time Bishop Gregory was elected Bishop of the Western Diocese. Bishop Lastavica was elevated to Bishop on May 11, 1963. I was proposed for election on May 11, but failed to receive the necessary
7523 votes to be elected. My election and that of Bishop Gregory were by the Holy Assembly of Bishops in Belgrade and that is the only body that can remove me as Bishop of the Midwestern Diocese, according to the Constitution. My first duty is to administer

the American-Canadian Diocese and then with the two other Bishops make the necessary changes in organization of the Diocese and send all these changes to the Holy Assembly for approval. Having been
7524 made Bishop of the Midwestern American Diocese, it is a fair statement to say that I will remain as Bishop until I die or until I am removed by the Holy
7525 Assembly or applied to retire. By my election I became a member of the Holy Assembly of Bishops. The
7526 three Dioceses had their Church National Assembly in Detroit in 1964 and that is the only National Assembly that has been held since May of 1963. That was one meeting in Detroit at which all of the church congregations that then recognized me, Bishop Lastavica, and Bishop Gregory, sent their representatives.
7527 There was at that time a temporary Church Council elected from all three Dioceses. That Council has continued to function since 1964 and there are 18 members on it, including the three Bishops. My Diocese, the Midwestern American Diocese, has a Diocesan Council which has been in existence since 1963.
7528 We elect a new Diocesan Council every second year at a meeting. The most recent Council was elected in November of 1969 and the meeting took place in the Diocesan Office at 5701 North Redwood Drive, Chicago. Two delegates from each congregation and the clergy elect the Diocesan Council. These church congregations are those in the Midwestern American Diocese and the clergy from those congregations. At
7530 the most recent meeting in November of 1969, I believe about 18 congregations participated and there would be two laymen for each of those and at least one parish priest from each of those. There are no other organizations within the church who were represented or who participated in the election of the

Diocesan Council, and I presided at the meeting.
7531 Members of my staff and the Ecclesiastical Court participated as clergymen. The procedures for elections is in keeping with the Constitution of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, but the group that met in Chicago in November of 1969 elected a Council for the
7532 Midwestern Diocese. No other bodies were elected.
7533 I know that the other two Dioceses had similar elections according to the Constitution, where they elected committees. I had nothing to do with the election in the two other Dioceses. I put out the call in my Diocese for the meeting. The Sabors that were held every three years had laymen come from different parishes and priests meeting from different parishes, and the group would elect the Diocesan Council for the Serbian Eastern Orthodox Diocese for the United States of America and Canada. We have followed the same procedure since 1963 in electing our Diocesan Council for the Midwestern American Diocese. We
7537 have been having these Assembly meetings periodically ever since 1963. I believe we have one every sec-
7538 ond year so there is a new Diocesan Council and
7550 Board elected every two years. I have a copy of DX 192 which I addressed to the Holy Synod of Bishops of the Serbian Orthodox Church and which I signed
7551 as Bishop of the Midwestern Diocese. In this document I mentioned that it is an Assembly in the second paragraph "the Assembly under our presidency held on November 6, 1963 in Milwaukee, Wisconsin". When I say our presidency I refer to myself. When I use the word Assembly, I did not say Church National Assembly, but just a meeting of people. I feel a
7552 more correct translation would be annual meeting, but

not Church National Assembly. The same people who attended that meeting would be those who would always attend a Sabor of the American Canadian Diocese. The only voting members were the 14 parish priests and 22 delegates. I believe the other two
7553 Dioceses operate in a similar manner as at one time after the death of Bishop Stefan, I was appointed temporary Administrator of his Diocese by an act of
7554 the Holy Synod of Bishops. This occurred a few days after the death. There was a meeting of the Synod in Belgrade between the date of his death and the date I received my appointment, and I received notification indicating that they had met and duly appointed me.
7555 I was relieved of my duties as Administrator after the election of the new Bishop. Two Bishops came
7556 and installed the new Bishop in his Diocese, but I do not recall that I ever received a direct communication from the Holy Synod advising me that my duties as temporary Administrator had been termi-
7557 nated. Had I been so advised I would have retained a copy of that decision among my files.

7558 In DX 192 dated November 26, 1963, which I wrote, I referred to Church Councils which will bring changes and amendments to the present Church Constitution. I was referring to the Holy Assembly's edict that we draw the borderline between the dio-
7559 ceses and other proposed changes. It was a decision of the Holy Council of Bishops of May 10, 1963 that the American-Canadian Diocese be reorganized and
7561 territory be added. In my letter of November 26, where I spoke of changes and amendments, I was discussing those which were needed to implement and carry out the decision of the Holy Assembly of Bishops of May 10; they had said as soon as Bishops are

appointed for the newly established dioceses, all other necessary diocesan bodies and organs should be organized. The final boundaries of the newly established diocese however, and revisions of the existing Church Constitutions should be studied by the Church National Assembly and submitted for final decisions to the Holy Assembly of Bishops. We three Bishops
7562 have to present this to the National Assembly and together with the Assembly, shall make final boundaries and necessary changes and forward it to the Holy Assembly for approval. There was since 1963, a
7566 Church National Assembly held in Detroit in May of 1964, but it did not take any action in any way to modify the division of the former diocese into three new diocese, as we could only make temporary borderlines because of the case here in Waukegan, and we promised the Court in Waukegan not to interfer with the corporation. At the Detroit meeting we did
7568 not do anything to change the existing Constitution of the American-Canadian Diocese because of our promise to the Court in Waukegan. We accepted
7569 the decision of the Holy Assembly of Bishop's unani-
7571 mously. The changes I had in mind when I wrote this letter were those necessary to implement the instructions of the Holy Assembly of May 10, 1963.
7572 We plan to amend the existing Constitution of the Serbian Eastern Orthodox Church for the United States of America and Canada. This action should
7573 be taken by the three Bishops together with the Church National Assembly. Once this action was
7575 taken and approved by the Holy Assembly of Bishops then these three new dioceses will be successors of the Old American Serbian Orthodox Diocese for the United States of America and Canada. It was at the

meeting of May 17, 1963 of the Holy Synod that I was appointed temporary administrator of what was known as the Middle Western American Diocese, and this appears on page 150 of PX 205 purporting to be copies of the minutes of the Holy Synod's meeting.

On page 148 is a recital of the action taken by the Holy Assembly at that meeting and the contents of that recital were forwarded to the persons named on page 150, including His Grace Bishop Dionisije, the Ecclesiastical Court, the Diocesan Council, the Church Lay Council Sabor in Libertyville, with copies to the Administrator of the Western American Diocese, to the Administrator of the Middle Eastern American Canadian Diocese, and to the Religious Commission of the Federal Executive Council. I first received a letter appointing me Administrator and later this exhibit.

Following the May 10 meeting of the Synod, I at no time received a letter addressed to me as Administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada during 1963, nor did I receive any such letter from the Holy Bishop's Assembly.

PX 202 purports to be the minutes of the Holy Council of Bishops of May 11, 1963. These are the minutes which Mr. Karacic and I went to Belgrade and got and brought back here last month. I was aware that I had been nominated for Bishop on May 11 but that it was defeated. I was not aware that part of that proposal was that one of the newly created bishops be named as administrator of the Mid-Western Diocese to which Bishop Dionisije had been transferred and then suspended. What is marked as Exhibit 195 is a copy of the letter which I sent to the

Patriarch as Bishop of the Mid-West American Diocese. Where I referred to the fact that the Patriarch should not take advice from legal counselors, I was referring to information that the son of Mr. Nicholas Stepanovich was in Belgrade and had visited the Patriarch and had a conversation concerning why Firmilian is not a metropolitan. I heard about the conversation here and wrote the Patriarch not to take anyone's suggestion but to wait for our three bishops to propose what the church needs here in America. I told him that this should be put in the Constitution first and that it is not the time for it now. It was my feeling that once Bishop Sava was installed as Bishop, it was automatic that my duties as administrator terminated. When I received the decision of the Holy Synod I read it carefully and it stated that Bishop Dionisije should give the diocese, the American-Canadian Diocese, to his deputy and it named my name. Regarding the duration of my appointment as administrator of the American-Canadian Diocese, I relied on the document that the American-Canadian Bishop Dionisije was suspended and that his duties should be given to Administrator Firmilian. It was my understanding that I would be administrator of that diocese until the guilt of Bishop Dionisije was conclusively investigated and judged.

(Offer of proof.) It was my understanding that my duties as administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada were to continue until the guilt of Bishop Dionisije was conclusively investigated and judged. Bishop Dionisije's guilt was conclusively established by the Holy Assembly on March 5th 1964. I do not think that my duties terminated on that date nor have

they terminated as of this date. (End of the offer of proof.)

There is a Serbian Eastern Orthodox Diocese of
7631 the United States of America and Canada today and I am the temporary administrator and will continue to be so until Bishop Dionisije fulfills the order of May 10, 1963 to turn the diocese over. My duties are to put into effect all of the decisions of the Holy Assembly of Bishops. The first decision was the suspen-
7632 sion of Bishop Dionisije and he was suspended and has been defrocked and so this is a concluded statement in the eyes of the church. Concerning the enforcement of the decision to divide the diocese into three parts, it was my duty to call a church national assembly, preside over it, read the decisions of the Holy Assembly of Bishops and Synod, and make provisions for the Amendments in the Constitution to be
7634 sent to the Holy Assembly for approval. As the highest church authorities are binding on every member, it was my duty to inform the Church National Assembly about the decisions and to impliment them.
7637 In 1964 this case had not yet been decided in Court and the three bishops summoned the Church National Assembly to temporarily reorganize and place boundaries between the dioceses. When the court decides
7638 the issue, we shall call a Sabor and make the necessary amendments and send them to the Holy Assembly of Bishops for approval. In May of '64 in Detroit we carried forward as far as we could the reorganization of this diocese into three parts with the bishop at the head of each of the three. If the court
7641 sees fit to grant me as administrator control of the assets and properties of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, I would call under the Sabor another church
7643 national assembly.

(Offer of proof.) It is not contemplated that there will be in the future a bishop elected to replace Bishop Dionisije as bishop of the Serbian Eastern Orthodox Diocese of the United States of America and
7645 Canada. If I called a Sabor it will be my duty to inform the people about the decision of the Holy Assembly of Bishops and to see that it is carried out by the Assembly. I do not know whether the property will be divided up and it is for the church national assembly to decide these questions. I heard the Bish-
7647 op Nikanor testify that the monastery would go to the Mid-West Diocese, Shadeland would go to the Eastern Diocese, and Jackson would go to the Western Diocese, but that is his opinion. (End of offer of proof.)

7648 In the call for the Sabor held in Detroit, Michigan, in May of 1964, it was proposed as per the Constitution that two delegates from each of the churches be sent. This is in accordance with Article 16 of the American-Canadian Constitution. In that call that I and the other two bishops sent out, we specified that the two delegates, in order to attend the Sabor and participate, would have to agree to recognize the highest authority of the Serbian Church, the Holy Bishops Council and the Holy Bishops Synod and a decree relative to the division that formation of three Serbian Orthodox Dioceses in the United States of America and Canada.

7651 DX 197, dated February 10, 1964, is an English translation of the call to the Church Assembly to be held in May of 1964. This further provides that in
7652 order to be elected as a lay delegate to the Sabor only persons who agree to the reorganization of the diocese into three new dioceses could attend. Only

persons who recognized all the decisions of the Holy Assembly including the removal and suspension of
7654 Bishop Dionisije could be elected. Article 16 of the American-Canadian Diocese Constitution provides that delegates to the Diocesan Assembly will be individuals elected by church school congregations, namely two laymen. Those priests who followed the Amer-
7656 ican-Canadian Diocese under Bishop Dionisije eliminated themselves from the Sabor in Detroit in 1964 by refusing to recognize the church authority. I added the following sentence to the call "Priests of both orders who have selected schism and have participated in schismatic action cannot participate in the church peoples assembly." These were priests who retained allegiance to suspended Bishop Dionisije and continued to recognize him after the Holy Assembly's decision. They could not work or attend the Church National Assembly. At that time Bishop Dionisije had not been defrocked, but was suspended which means he was removed from all authority in
7658 the church. A priest is obliged to obey his bishop as long as the bishop will obey the orders of the highest
7661 authority. If a priest were willing to accept the decisions concerning the suspension of Bishop Dionisije but refused to accept the decision to divide the diocese into three parts, he would not be permitted to participate as a voting member of that Sabor held in 1964 in Detroit because he would have disobeyed the orders
7666 of the highest church authorities.

(Offer of proof.) In our letter summoning the Sabor in Detroit we specified who could attend and told the delegates and the clergy who could not attend according to the rules of the church. Shortly after the
7667 three administrators were notified of the action of

the Holy Synod on May 17, 1963, a meeting was held with ten or twelve clergymen at Shadeland in Pennsyl-
7668 vania. I had not been in contact with Bishop Dionisije via telephone or directly between May 10, 1963 and the meeting of administrators on June 3rd 1963. I received a letter from Bishop Dionisije dated May
7669 30, 1963 marked PX 120. I did not write any letters
7670 to Bishop Dionisije at this time. Between May 10th
7671 and June 3rd of 1963, as administrator of the Serbian Eastern Orthodox Diocese of the United States of America and Canada, I did not make any request personally by telephone or in writing to Bishop Dionisije asking him to surrender the diocese to me as administrator. I recognize DX 198A purporting to be the minutes of the meetings held at St. Sava Church, Pittsburg, Pennsylvania, June 10, 1963 with my handwriting appearing on the front page at the
7673 top. This refreshes my recollection that myself and the two other administrators had before us on June 4, 1963 Bishop Dionisije's letter. It was decided at this meeting of administrators that we would attend the plenum meeting of the American-Canadian Diocese scheduled to be held in Libertyville on June 6, 1963 and, in fact, we did attend that meeting. About 70 people attended at that meeting which were more than should have attended. The plenum refers to
7679 both halves of the diocesan council meeting. One half is financial-administrative; the other is educational and when they meet there should be twelve and not 70. Prior to June 6, 1963 I had occasion to at-
7680 tend plenum meetings and Bishop Dionisije used to bring all the committees, for example, the committee for Shadeland, the committee for the monastery, the commitee for Jackson, to these meetings and

that's how he understood the plenum. On several
7681 occasions I tried to tell Bishop Dionisije that this was not what the plenum was supposed to be. On one oc-
7682 casion in 1962 I recall pointing this out to Bishop Dionisije when I was there in the capacity of his deputy. Based on my interpretation of the word plenum, I was not entitled to be in attendance at that meeting but I did attend as the bishop ordered me. There was a call for the meeting of the plenum and
7684 I attended. I did not make an objection at that meet-
7686 ing. I do not recall when I made my objection, but probably when I received the invitation. This was during an informal conversation with the bishop when just the two of us were present. At the June 6th
7689 meeting the members of the educational section and
7690 the financial section were both present at that meet-
7691 ing. The officers of the council were present. At this meeting the suspension of Bishop Dionisije and the reorganization of the diocese were discussed. At that time we received from the Holy Assembly and Holy
7692 Synod all of the decisions. The part of DX 198 which relates to the meeting of June 6th, 1963 was prepared by me because I was the only one of the three administrators who was present. I do not recall what
7694 the majority of persons at the June 6th meeting opposed the decision of the Holy Assembly to divide the diocese into three parts. They said that they were not competent to decide such a question, but the church national assembly should decide. They then decided to send a telegram to the Holy Synod asking
7695 for an investigation commission. I recorded in Document 198 that it was obvious the majority believed the decision of the Holy Assembly creating new dioceses was made without prior consultation of the dio-

cesan governing bodies and was against the American-Canadian Diocese Constitution which could only be changed by a church assembly.

7696 The majority at the meeting of June 6th felt they were not competent and that the church peoples assembly should rule on the matter. They also desired the Assembly be rescheduled to August instead of October and that the investigative commission arrive prior to the Assembly meeting for investigating pur-
7697 poses. At this meeting I asked the Bishop Dionisije to
7698 turn over the administration of the diocese to me. I wrote on page 3 of this exhibit, "We consider appropriate to let the Holy Synod know the appointment of an administrator for the Mid-West Diocese in addition to the aforementioned situation produced also a doubt that the administrator's role follows in advance prepared plan: mainly to take over the administration of the diocese until another bishop from Yugoslavia is appointed for this diocese." This statement reflects what was discussed at the meeting. My appointment as administrator of the Mid-West Diocese was included in the discussion because at that time we had received the May 17th decision of the
7699 Holy Synod.

7712 I do not know whether the amendments to the American-Canadian Church Constitution in 1960 were approved by the Holy Assembly of Bishops. I attended the Sabor in 1960. PX 145D are the minutes of the Church National Assembly of 1960 and at page 4 deal with the structure of the Plaintiff. This pro-
7715 posed amendment was not adopted. This Sabor did
7718 not accept the committee's recommendation with ref-
7719 erence to these changes in the Constitution. It referred the matter to the Diocesan Plenum which

would select a committee to study it. The power to rework the Constitution was given to the plenum and they were permitted to submit the Constitution
7720 they would draft to the Holy Assembly of Bishops directly. A decision to revise the Constitution must be submitted to the Holy Assembly for final approval.
7721 It was not submitted. It is my opinion that the Constitution requires rearrangement of the plenum be approved by the Holy Assembly of Bishops. Up until
7726 June 6, 1963, Bishop Dionisije had not been tried. All of the charges had been read at the Holy Assem-
7727 bly of Bishops. At the time Bishop Visarion and Bishop Hrisostom issued their statement from Mil-
7732 waukee condemning Bishop Dionisije, he had not been tried. I cannot give an opinion as to whether or not Bishop Hrisostom and Bishop Visarion violated the canons when they made this statement.

FIRMILIAN OCOKOLJICH testified as follows:

7738 In the June 10 minutes, the first recommendation was that we hasten against Bishop Dionisije. In the
7746 1941 minutes, the plenum is defined as the Diocesan Council, Educational Board, Auditing Board, and Ecclesiastical Court. This proposal was approved by the Sabor. The 1956 Sabor changed the Diocesan
7750 Council so that it is composed of Executive Board, Education Board, Board of Shadeland, and Board for Canada.

7756 (DX 200 is admitted in evidence.)

7766 Bishop Dionisije bought the Shadeland property and then transferred it to the Diocese in a way similar to the purchase by Bishop Mardary in Libertyville

and subsequent transfer to the Diocese. I recognize
7769 my handwriting on DX 201. I was a member of the
7771 committee that recommended the property be trans-
7773 ferred from Bishop Dionisije to the Diocese. Before
7774 signing my name and making this recommendation, I was assured from my examination of the bills and documents that everything was in proper order and that the amount agreed upon was a fair and reasonable price for the property in question.

(DX 201 and 201a are received in evidence.)

7775 DX 202 is the agreement between Bishop Dionisije (seller) and the American-Canadian Diocese as the purchaser of the property known as Shadeland. I
7776 signed in the capacity as a member of the Board of Directors of the Diocese at that time.

7777 (DX 202 is admitted in evidence.)

7782 (DX 203 and 203a are admitted in evidence.)

7783 I am acquainted with a priest named Dusan Bavich. I met him when he was a cleric of the American-Canadian Diocese. He was in Lorain, Ohio, then California, and then in 1963, he was in Italy. He was
7784 a Serbian priest in Europe in 1963 under the jurisdiction of the Patriarch. Europe at that time was under the jurisdiction of the Patriarch. He was in
7785 Salzburg after the suspension of Bishop Dionisije.
7786 Sometime after 1963 he came to the United States for five or six months and then returned to Austria.
7787 He temporarily served in Waukegan at the Church of St. Nicholas. I asked him to serve in Waukegan. He had a letter from the Patriarch that he was in good standing and as such he was permitted to serve in my Diocese.

7788 I ordained Father Koster and Father Bavich parti-
7789 cipated in that service. He came to the United States
7790 again sometime in 1969 and he is still living here. He

is not serving in my parish. He is still a cleric of the Patriarch and the Diocese, Western Europe and Aus-
7792 tralia. This is the same Father Bavich that is men-
7793 tioned on page 17 of the indictment. At the time I accepted this priest and put him in Waukegan I had knowledge of this charge in the indictment of Bishop Dionisije. Father Burkich who made the charge was my secretary in 1967. I know of Father Timothy Tep-
7794 sich. I remember that he served in California and in 1957 came to Libertyville.

7797 The signature on DX 204 is that of Reverend Tep-
7798 sich. I know that he went under the jurisdiction of the Angelican Archdiocese of Chicago and became a priest in the Angelican Church. He served in an An-
7799 gelican Church in Waukegan for a whole. He also went to the Russian Orthodox Church in Pennsylvania.
7800 The Patriarch released him from his suspension and sent him to Europe. He then came under the juris-
7801 diction of my Diocese. He has served as a priest in
7804 my Diocese. In the Orthodox Church there is a possibility of forgiveness. If someone makes a mistake he can be forgiven if he asks forgiveness. The Patri-
7807 arch is a Bishop just like me and his powers are no greater than mine except that he has been elected to
7808 serve as the Patriarch. He has no higher power than
7809 I do to interpret the Canons. The Patriarch is a Bishop, the first among equals. I am looking at page 13 of the Judgment where ≟8 refers to a charge against
7810 Bishop Dionisije by me. Metropolitan Damaskin
7811 asked me and I told him what I had heard from the members of the Executive Board at Elizabeth. It was
7816 customary for the Church Parish to reimburse the Bishop for his traveling expenses and I do not consider the $200.00 charge to be unreasonable. I do not

7818 consider that the charge was too much. Metropolitan Damaskin did not ask me whether these travel charges were excessive or unreasonable and I did not volunteer the information. In order to obey the
7819 decisions of the highest church authority, people would have to pay allegiance to me, Bishop Sava, and Bishop Gregory. Only those persons who were in the parishes in those three dioceses are, in my opinion, members of the Serbian Orthodox Church in America.

7821 If a person has been baptized in the faith, taken his communion, been recommended by the church congregation and accepted and agrees to pay dues, he becomes a member of that congregation and automatically a member of the Diocese of the Serbian Eastern Orthodox Diocese of the United States of America and Canada. This is the way it was up until
7822 1963. Those living in the parish are parishioners and members are those who pay membership dues. To
7823 be a member you had to pay dues and the members were the ones who were elected the delegates to the Church National Assembly. In order to hold any
7824 office on the diocesan level, you had to be a dues paying member of the congregation. Before you could become a dues paying member a person had to be a member of the Serbian Orthodox faith. Dues paying
7825 members of the congregation of the Serbian Eastern Orthodox Diocese for the United States of America and Canada, who continued in the various parishes to pay their dues until the present time, are no longer members if they have not elected to follow the decision of May 10, 1963 recognizing the division of the diocese into three dioceses, with Bishops Gregory, Sava, and myself as Bishops. If this property were

turned over to me, these people would have the right to use it only if they returned to the church and recognized the decision of May 10. Some of the priests who
7826 have elected not to obey the decisions of May 10, 1963 have been defrocked. Some have not. Bishop
7827 Irinej was defrocked by Bishop Gregory, and he did this as Bishop of the Western Diocese. I don't think Bishop Lastivica defrocked anybody. I did not defrock anybody as Bishop of the Midwest American
7828 Diocese. I suspended a number of priests as Bishops of the Midwestern Diocese. In 1969 I changed my
7829 procedure and started defrockment procedures in the name of the temporary administrator of the American-Canadian Diocese. I did not revoke any of the
7832 suspensions that I made as Bishop of the Midwest
7833 Diocese. A priest may be kept under suspension for only one year and at the end of that year they were automatically lifted. They were not priests then because they didn't recognize the authority of the
7836 church. Gregory, Stefan and I were proposed as Vicar Bishops by Bishop Dionisije in 1962. I am a
7840 Monk. Balach was the only Monk living at Libertyville in 1962.

7845 I don't think Mr. Devrnja's charge concerning homosexual Monks was directed at me. At that time Bishop Dionisije was not considering anybody else for Vicar Bishops. Balach and Irinej could have been considered. If the charge is referring to me, it is false. It is false if it is referring to Bishop Lastivica. If it is referring to Bishop Irinej, it is false. I don't wish to express an opinion with respect to Bishop Balach.

7852 In my Deposition I testified that the first notice I had was a letter from the Holy Assembly advising

that the diocese had been divided into three parts and that I had been appointed Administrator of the Midwestern Diocese. I received this on May 26, 1963.
7855 I never received any document addressed to me as Administrator of the American and Canadian Diocese. When Bishop Dionisije was suspended on May 10, no Bishop was appointed as Administartor of the American-Canadian Diocese. I don't know of any case in
7856 the history of the church where there has been a suspension or a vacancy of a Bishop in a Diocese and his administrative duties have been replaced with anyone other than a Bishop. The appointment of
7859 an Administrator of the American-Canadian Diocese in 1920 was given to Bishop Nickolai and Archmandrite Mardary was his assistant. Patriarch German
7863 took over dispensations of a Bishop on June 13, 1963.
7866 The three newly appointed administrators on May 11 would perform the functions of a Bishop.

7867 Three of us consecrated a church in Cleveland which may be consecrated by clergy according to an authorization of higher authorities. Later when we were consecrated Bishops, we did it again. In my opinion, its canonically proper for someone less than a Bishop to be appointed administrator of a diocese.
7868 I can cite no Canon to support my opinion.

7870 After Bishop Dionisije had been defrocked, the old American-Canadian Diocese embraced the same territorial limits as the three new dioceses and he did not turn over that diocese. I do not know of any
7875 example in the history of the Serbian Orthodox Church where one diocese overlapped or was embraced within the same territorial and geographical limits of another diocese.

(DX 4 and 4a are admitted in evidence.)

7876 DX 205a and 205 are letters addressed to the Holy Synod which I sent. I believe the Synod sent a letter to the Bishops in Yugoslavia concerning this. I have never seen DX 206 before. I have heard that a letter
7877 did go out. I did not receive a copy of that letter.
7879 There was some mention of the letter in the Observer. I wasn't informed of what took place at the meeting of the Synod. DX 207 is a communication of the
7883 Synod which was sent to me. The proposed decision
7884 of the Synod was not thereafter enacted by the Synod. I don't remember if I have a copy of the July 29, 1967 letter referred to in this exhibit. DX 207a is in
7886 Serbian and 207b is the enclosure that Father Muldinovich sent me.

7891 (DX 205 and 205a are refused.)

7896 (DX 206 and 206a are refused.)

7900 (DX 207 and 207a and 207b are refused.)

7913 BISHOP FIRMILIAN testified as follows:

Cross Examination.

7937 (The Court refuses an offe rof proof) When I went to New York after leaving Chicago Bishop Dionisije
7939 sent me some money. I used my savings while I was
7944 in Chicago. (The Court refuses an offer of proof). (DX 190 is admitted). Members of the church who
7963 did not recognize the decisions of the Assembly left
7979 the church by their own action. These people have not been excommunicated.

7985 I signed DX 202 as a member of the diocesan council and from the diocesan council I signed as a mem-
7986 ber of the board of directors.

At the time I issued the call for the Sabor in May 1964 I did not issue it as administrator of the Ameri-

7988 can-Canadian Diocese; I issued it under the three new dioceses.

Redirect Examination.

I recall testifying about PX 145, the provision about the diocesan plenum being given the power at the Sabor in 1960 to make additions and changes in the constitutions. I was aware that a committee met although I was not a member. This committee was
7989 to report back to the plenum. The plenum would re-
7992 port to diocesan national assembly (Sabor). The minutes of the 1960 Sabor indicate that the plenum was not a report back to the Sabor but was to send the amendments to the Holy Assembly of Bishops for approval. This resolution was adopted by acclamation.

7995 Bishop Nicholai was bishop of this diocese and
7998 Mardary was his administrator in 1923. When Nicholai resigned the Patriarch assumed the bishopric of
7999 the diocese and Mardary remained as his assistant. Mardary in the administration of the diocese would do all duties except dispensations and blessings. From
8002 the very beginning of the diocese until 1963 there has always been somebody the rank of bishop either as bishop of the diocese or as administrator of the dio-
8006 cese. (DX 209 and 209A are admitted in evidence).
8011 No dioceses in Yugoslavia have their individual constitutions.

8012 FIRMILIAN OCOKOLJICH testified as follows:

Examination under Section 60.

8013 In 1957 when I left the monastery and went to Chicago, Bishop Dionisije was aware of where I was going to be staying. I believe at that time Father

Mijatovich came from Libertyville in connection with question with Rev. Mitrofan Kresojevich and both came to Chicago where we had a conversation. This occurred a few days after I left. While I was staying at the YMCA for about three months, I went to the University of Chicago library to read and suffered
8014 from some sinus problems. I was not working on my doctorate at that time as I had already received it.

Cross Examination.

When Mardary was appointed as administartor of the American-Canadian Diocese he held the rank of Archamandrite. At the time he was administrator,
8015 the diocese did not have a bishop.
8019 (Offer of proof.) The situation was the same in 1963 before and after May 10th as when Archamandrite Mardary was appointed administrator of the American-Canadian Diocese. (End of the offer of proof.)

8021 IRINEJ KOVACEVICH testified as follows:

8022 *Direct Examination.*

My name is Irinej Kovacevich and I reside at Shadeland, Pennsylvania, but for the last few months have been at the Monastery in Libertyville. I was born on September 6, 1914 in the Village of Vrncani, Yugoslavia. I attended grammer school and gymnasium in that area. I then attended Teacher's Col-
8023 lege in Negotin and graduated in 1935. Thereafter I went into the army as it was required by the laws of the country. I became a lieutenant in the army and
8024 after I came home I applied for a teaching position and was appointed to the same public school in which

I had completed my studies. I taught there for three years and then went to Belgrade to enroll at the University of Belgrade, Department of Education. I was enrolled there and in the fall of 1939 there was an appeal from the government for students who were educated in mathematics to enroll in the military service. I volunteered and was appointed in Sarajevo as an instructor in a school for officers until the war broke out in April of 1941. I was involved with
8026 new equipment in the area of anti aircraft and after I had learned about it I began teaching it to others because this was just before the war started and our country was surrounded by Germans and Italians and our only friendly border faced the Greeks. The war broke out in April of 1941 and was quite short in duration as Yugoslavia, which is the size of the State of Indiana, was attacked by the Germans and Italians and cut off from supplies and allies. I was
8027 taken as a prisoner to Germany in September of 1941 and remained in a number of prisons camps until April of 1945. The camp in which I had been held in
8028 April of '45 was liberated by the British and there were no cities nearby as it was in the mountains. I had escaped just before the British arrived and we all went to the same camp where there was action to return all the prisoners to their native countries. And I thought I would go to prison in Yugoslavia. I chose to remain in a refuge camp with the British Army until they offered me a position to work. I
8030 remained in the refuge camp until the fall of 1948.
8031 My duties were that of a dishwasher in the kitchen of one of the army units of the British Army and I was paid food and clothing, but I do not remember whether a salary was included. In the fall of 1948

I was selected by someone to go to England to Dorchester College which is close to Oxford. There were five of us sent at that time. At Dorchester College
8032 we spent the next year studying theology and at the end of that time a representative of the Episcopal Church of America came to the college and asked me whether I would accept a scholarship to finish my theological studies at St. Vladimir's Seminary in New York. This was in 1949. I agreed and came to
8033 New York in December of 1949 and went to St. Vladimir's Seminary and finished the next term which ended in June of 1950. Then I came to the Monastery in Libertyville for two months of summer vacation and worked there in the summer camp with Bishop Fermilian and others. Then I went back to study, enrolled both at St. Vladimir's Seminary and at Columbia University. This was all done through the goodness of primarily the Canon West with whom I dealt and who provided scholarships and payments for all the credits we took at Columbia University. I graduated from Columbia in 1952 and enrolled for a master's degree at Columbia while continuing at the same time at St. Vladimir's. In June of 1953 I received my masters degree at St. Vladimir's. My
8034 trip to the monastery in Libertyville in June of 1950 was my first visit there. I continued to come to the
8035 monastery in the summer for summer work during 1950, 51 and 52 until the fall of 53. When I came in 53 for summer vacation I remained there and became a monk. I did not complete my master's program at Columbia because I did not fulfill the requirement of 2 credits in a foreign language.

8036 I did complete my thesis and the subject was "The theological signifiance of the Iconclastic contraversy". I was ordained a monk by Bishop Dionisije.
8037 I remained at the monastery as a simple monk and in the month of December I was ordained a deacon and after that a Hieromonk which is the same as a priest. I was assigned to the monastery to serve in the monastery church for the people who lived in the area. I remained there I believe until June of 1955 when I went to Shadeland. Shadeland is located in
8038 Pennsylvania about 25 miles south of Erie. Bishop Firmilian was at the monastery part of the time between '53 and '55 but I am not exactly certain when he left. We discussed the need of someone to go to Shadeland and as I was afraid to take on anything that big. Archimandrite Firmilian went and I promised I would come to help him anytime he needed me.
8039 Bishop Firmilian asked me to come down and help him out in 1955, so I went and when he was supposed to take me back to Libertyville I saw that he was packing his own things. When I asked him what had happened and where he was going he replied "You know, you are going to come back here; I am going to Libertyville." This is the first time I had heard about this. After we got to Liberytville I received orders from Bishop Dionisije to go to Shadeland and take over the duties there and that Bishop Firmilian would remain in Libertyville. My duties at Shade-
8040 land were that of an administrator. The estate has about 1400 acres and ten buildings of which only two were used. One was where Bishop Firmilian lived and the other in which the old men lived. These were old men who were unable to work and were mainly sick and who had come as refugees from Eur-

ope. The rest of the buildings were in disrepair. Some of the old men staying at Shadeland had been in this country for 50 or 60 years and in their old age had come to stay. The buildings had been on the property
8042 at the time Bishop Dionisije had purchased it in his own name and before he sold it to the Diocese. At the time I arrived at Shadeland in 1955, it had been purchased by the Diocese from Bishop Dionisije.
8043 When I arrived, there were only two old timers at the property and about 25 to 30 refugees from Europe.
8044 The refugees consisted of old men with the exception of a few younger men who were disabled and unable to work.

8045 Our staff consisted of the cook, for awhile, Father Mitrofon Kresojevich and myself, of course. The thirty to thirty five men were mostly able to take care of themselves except when they became ill. We also had a priest by the name of Paul Markovich who had been with Bishop Mardary at the Monastery and who was a very old man. I believe Bishop Firmilian took him to Shadeland and we took care of him in our home where we lived until he died. He remained in Shadeland for a couple of years. He was
8046 bedridden when I got there and remained so the entire time until his death.

8047 Mitrofon Kresojevich whom I mentioned is referred to in PX 16, page 15. He was at Shadeland helping me during all of the period that I was at
8048 Shadeland and went to churches which did not have priests to serve on Sunday. He was a priest at that time but acted as my assistant and worked at Shadeland. He was there when I arrived and therefore was there while Bishop Firmilian was the director. At

the end of the two year period Kresojevich was assigned to a parish, but then would come back and stay for six months or so depending on where he was needed or assigned. He performed a number of duties
8049 during the two years he was under my direction working at almost everything that was given to him. He scrubbed floors, washed laundry and everything and kept the home practically in shape all by himself. He worked both in the home that I and the elderly priests occupied and the other home where the old men were living. He took care of the bedridden priest permanently, and I thought he treated him better than any son would treat his father. During the time that he
8050 was under my direction and performing the functions that I have told you about at Shadeland there were never any charges brought against him by anyone concerning his conduct.

8054 I do not know where Father Mitrofon went after he left Shadeland but I have had contact with him since on many occasions and I know that he is now in Elizabeth, New Jersey and has been there for perhaps a year. He now has a parish there but I do not know where he was immediately prior to that. It is my understanding that he has been acting as a parish priest someplace within the diocese since he left Shadeland in 1958. Since I have been a Bishop in
8055 this diocese I have not heard of any further charges or further incidents in connection with this priest. I remained as director of Shadeland until the month of December in 1961. Between 1955 and 1961 while I was director, an overall plan as to the use of the Shadeland property could be used for was adopted to include a home for the aged.

Secondly, a summer camp for children was organized and finally a new church was built. At this time also the home in which the old men were living was condemned by the Labor and Industry Department and I had to remodel that building which contained 32 rooms to have it approved for residence by the sick and old men that were there. We also put in a man made lake to have a place for fishing and swimming for the children. During this period also mortgage payments had to be made. DX 210 for identification is entitled Shadeland and is a souvenir book covering the period 1951 to 1962 which was prepared in 1962 after I left. It was prepared by Father Velimir Kovacevich in 1962. I am familiar with this document and can state it accurately sets forth the history and development of that property and the improvements made thereon between the periods it purports to encompass.

From Shadeland I went to Jackson, California which at that time was only a piece of property purchased on a mortgage and is now known as St. Sava Mission. I remained there permanently until 1963. When I was assigned to Shadeland I was only a Hieromonk but in 1957 I was elevated to the rank of Abbot or Iguman as it is called in our church. In December of 1961, before I left for California, I was elevated to the rank of Archimandrite in a church service performed in the cathedral of St. Sava in New York where Bishop Fermilian was already an Archimandrite at that time. I remained an Archimandrite until December of 1963 when I was consecrated Bishop at St. Sava Monastery in Libertyville after an election by the church national assembly in November of 1963. This is the church national

assembly of the Serbian Eastern Orthodox Diocese of the United States of America and Canada which was held in November of '63 at the monastery property in Libertyville. The delegates to that Assembly were regular delegates to the tenth church national assembly of the diocese composed of all the clergy, the president of each church-school congregation and a delegate elected by each church congregation for that purpose. There were also five delegates from the Federation of Serbian Sisters. There were also prominent people engaged in the cultural national charitable and other works within the Diocese and some other guests from other churches who were not voting members of the Sabor. I am able to cite an example in the history of the Serbian Orthodox Church whereby a Bishop has been elected by the clergy and laity or by the people of the church similar to the method of election that I told you about myself. After 1766 when the Serbian Patriarchate was abolished, Dioceses and Metropolia that today are a part of the Serbian Church were doing this for 150 years; for instance, the Diocese of Sarajevo which is Bosnia was under the jurisdiction of the Patriarch of Constantanople, and in 1855 the church National Assembly, for instance, elected Metropolitan Prokopios and as his Vicar, Bishop Antin, and they were consecrated by the Patriarchate of Constantinople. Then in 1860 Metropolitan Dionisije and his Vicar Bishop Sephronios were elected and so consecrated. There is an example of a Bishop Sava Cosonovich, who in 1879 was asked by the Patriarch of Constantinople to be consecrated, but he would not accept the consecration until election by the people and clergy of his Diocese was performed. At the present time we have an ex-

ample in the Macadonian Church where Bishop Klement was first elected at the Church National Assembly of the Macadonian Church and after that was consecrated by his Holiness Patriarch German and Bishop of Bachka, Nikanor and Metropolitan of Macadonian Church, Dositje. This occurred in 1958
8071 of 1959. Election of a bishop is distinguishable from consecration.

8072 Consecration has never been done by lay people. To perfect the consecration of a bishop, it is required that he be consecrated by at least two canonical bishops. In order to be considered a canonical bishop, it is necessary that the bishop be of a recognized
8073 autocephalous church. The term "apostolic succession" is connected with the hierarchy of the Orthodox Church. It is connected with the consecration of the Holy Sacrament of Ordination. It started from the apostolic time when Christ laid his hands upon his apostles and told them to receive the Holy Spirit. The apostles also did the same thing to their successors and on down the line in the Orthodox Church; that chain has never been broken and this transsuccession
8074 of the reception of the Holy Spirit is the so-called apostolic succession. There is no requirement in the Serbian Orthodox Church that these two bishops consecrating the third bishop be Serbian bishops. St. Sava was not consecrated by the Serbian bishops. There are many examples. They have to be Orthodox bishops and they must be in the line of succession, but they do not necessarily have to be from the Serbian Church. I was consecrated in December of 1963 by Archbishop Genady and Archbishop Gregory; bishops of the autocephalous Polish Orthodox Church.

8078 The term hierarchal is used differently in the Roman Catholic Church and the Orthodox Church and in the Protestant Churches. What the Orthodox Church is is stated in the creed: it is one, holy, Catholic and apostolic church; one because it is one Christ who is the founder of the church; holy, because the Holy Spirit is the one who governs the church; catholic is not what is today known as Roman Catholic. The word "katholiki" is a Greek word used to characterize the church in the second century by St. Ignatius. It is difficult to explain what it means, but generally means that the church is of a spiritual nature by which it is not confined either to a single place and the church is open to all including those who have passed away and those who are to come. Apostolic was explained in my previous answer.

8080 The hierarchy of the Serbian Orthodox Church is
8083 the deacon, priest and bishop. The tasks of each of the ranks in the hierarchy are prescribed by the church and each is the same for all deacons. What they can do during services as to performing the holy sacraments are prescribed. In all orthodox churches their duties are absolutely the same. The duties of the priests, deacons and bishops are part of the internal affairs of the church that is the spiritual dogmatical things which cannot be changed. The internal affairs of the church are those things connected with the spiritual and dogmatic that is the teachings of the church that cannot be altered or changed by any Serbian Orthodox Church. These
8084 things are pronounced only by Ecumenical Councils. The holy sacraments for example are matters of internal affairs and are performed in the same manner in all orthodox churches while external affairs of the church are different in all different national ortho-

dox churches. External affairs are connected with administration and with the physical existence of the church in this world. These things can be changed or altered or regulated by each national church in the manner that they feel necessary. Matters of faith and doctrine are considered internal affairs of the church and that is where the orthodox church is strictly hierarchal. As far as the sacraments are concerned, there is no variance or can there be any from church
8085 to church as to their administration. In all orthodox churches, the Holy Sacraments and all matters that are called internal affairs of the church are performed in completely the same fashion except for the language in which it is served. There is not anybody above the level of bishop that can in any way alter or change the matter of sacraments or the matters of dogma and faith in the world of orthodoxy with the exception of an Ecumenical Council. In the history of the orthodox church there have only been seven Ecumenical Councils and the last was held at the beginning of the ninth century. In the matter of external affairs, the orthodox church is not strictly hierarchal; it is more congregational. For example in this diocese, the American-Canadian Diocese, a priest is not appointed by the bishop directly.
8087 He is first obliged to send his application through the bishop but is elected by the congregation. If say five priests apply, the one who receives a majority vote from the membership of that particular congregation is elected the future priest for that parish and after that the bishop approves his election and only after all this is he the priest of that parish.

8089 In the diocese in Yugoslavia priests are appointed by the bishop. The local parishes there have absolutely nothing to do with the selection or rejection

8090 of that priest. There is a difference between members of the church and the Serbian Orthodox people who live in the geographical territory around a given church. Members of the church are those who pay dues to the church and a certain amount of it to the diocese. The rest of the Serbian Orthodox people are called parishioners who do not necessarily contribute anything to the church; don't have any obligations; yet they can come and use the church for all the services that can be offered by the priest. In
8091 the American-Canadian Diocese prior to the controversy in 1963 the procedure for one who wanted to become a member of a church was that first he had to be over 18 years of age and make application to the executive board of the church. They would bring the application to a regular meeting of the membership and would read his name and state that he expressed the desire to pay his dues and be accepted. If there was no complaint that such a member was a bigamist, atheist, communist or some other thing he would be accepted by the members. In some instances and in different church congregations the by-laws may vary. After a period of time elapses the member is given the right to vote. No such practice
8092 exists in the dioceses in Yugoslavia. People in a Yugoslavian Diocese do not pay dues like it is done
8097 in this diocese. They do not have church national assemblies in the dioceses in Yugoslavia.

In matters of controversy between a parish priest and the parish, diocesan council is the body which has jurisdiction in the American Diocese to settle a controversy. In the case of ecclesiastical offenses the
8099 ecclesiastical court has jurisdiction. This practice of solving disputes and problems is phrased in the

Constitution of the Serbian Orthodox Diocese for the United States of America and Canada and has been in there since the Constitution was approved in 1928. Since I have been active in the Serbian Orthodox Church this practice has not been in effect in the dioceses in Yugoslavia.

DIONISIJE MILIVOJEVICH

Direct Examination (Continued)

I have page 15 of the indictment in front of me; the reference to monks similar to Kresojevich.

8128-30 (Counsel, the Court and the witness read page 10 of the Exhibit No. 180, the enclosure from which the charge in the indictment is drawn.)

8131 In 1962 I was proposing as my vicar bishops the present Bishop Firmilian, the present Bishop Dimitri from Australia and the present Bishop Gregory. According to my knowledge none of these three persons is a homosexual.

8132 I see the portion of page 16 related to "Dionisije's heterodoxy". I have no knowledge concerning this
8133 incident about a protestant woman. I don't remember any case similar to the one described here. Rev-
8134 erend David Popovich mentioned on this page died ten years ago. If a non-orthodox person will agree to accept the orthodox creed and to baptize the children in the orthodox faith we will perform the marriage. But they have to make this commitment in order to be married in church. This is a uniform
8135 procedure for mixed marriages in my diocese. I
8136 would not permit a person to enter the orthodox faith only by reading either in English or Slavic a prayer. The charge about a Czechoslovakian is false. The
8137 statement about a priest in Minnesota is also false.

Hieromonk Tepshich was accepted as a student in our theological school in 1944. Then he became associated with the Episcopal priest, serving Holy
8138 Liturgy and receiving communion with them. He was
8139 defrocked. DX 204 is his letter of resignation. (DX 204 is admitted in evidence). I don't know where
8140 Father Tepshich is. DX 211 is a letter from Father Tepshich dated March 17, 1967 which I received from
8141 him. (Counsel notes that letter from priest Tepshich indicates that he went to Europe and that the Patriarch took him into a monastery and that this letter is a very friendly and respectful letter to the bishop
8142 from this young priest. Court refuses the exhibit).
8143 The priest Petkovich referred to on the top of page
8144 17 died about 15 years ago. I knew him. I did not convince him to marry after ordination. When I
8145 got a letter from him I forbade him from church duties. The church congregation defended him and we had trouble for six months or one year. He mar-
8146 ried after his ordination. He was defrocked later on by the ecclesiastical court. Mladen Trbuhovich is a priest at the present time somewhere in the Eastern American Diocese. The next charge refers to newspaper "Free Word". Danilo Kozomar has been dead
8150 for 15 years or more. Danilo Kozomar was a priest. The indictment enclosure says that his wife died.
8151 I looked for documents somewhere and the cemetery where this woman is buried. Only the leftist "Free
8152 Expression" objected when I elevated him to Archi-
8153 mandrite. (DX 212 and 212A indictment enclosure are admitted in evidence). (Counsel states to the Court that with reference to the next charge about ordaining a chemist that he has checked the enclosures DX 180 and 181 and there are no names given

to identify anybody). I don't know who they are talking about. I made many ordinations during my thirty years and I don't know which one they're referring to.

I will read DX 5, declaration signed by Father Brkich. I have read the charge on page 17 about Reverend Brkich warning me. I did ordain Father Vavich as a priest. I recall discussing it with Father Brkich. He recommended that I ordain him as a deacon only. Brkich said that Vavich is sick, being an epileptic. I made an investigation about his sickness and doctors found that he is not epileptic; that he had some other kind of sickness and I made him a priest. DX 169 is two reports from doctors dated October 29, 1959 and November 30, 1959. These are the reports I referred to. (DX 169 is received in evidence). The two paragraphs on page 17 beginning "Bishop Dionisije does not care for canonical rules" and the next paragraph beginning "about the same event" are false. I have never transgressed against my monastic rules before the Holy Liturgy. Prior to serving Holy Liturgy we read some prayers and the Holy Canons. We abstain from food or drink all night and all morning until the Holy Liturgy is finished. After midnight we have nothing to drink or eat until the service. I was never examined about my orthodox life and beliefs by anybody. I note something about the charge in page 18 concerning a priest in Indianapolis. The parish didn't have money to build a new church and I permitted them to have church services in the church hall until they might build a church building. This is no violation of any canons of the church.

The next charge concerns praying for Stepinac. The Communist regime condemned Archbishop Stepinac of Croatia and they condemned him because he renounced their authority. When they condemned him I raised my voice to him, condemning the Communistic regime and defending Stepinac and defending anyone who is fighting Communism. Bishop Stepinac is a bishop of the Roman Catholic Church. It was my duty to speak out as I did. Roman Catholics are Christians and as Archbishop of the Roman Catholic Church he was condemned by the Communistic regime for not recognizing that regime. I have served with non-orthodox priests or bishops. I have served services with Episcopalians, Methodists and the Russian Orthodox Church under Metropolitan Anastasios. I was called to participate in the procession when the Episcopal bishop was ordained in Washington. I participated with Bishop Manning, the late bishop of New York. We consider that the Episcopal Church was properly and canonically established by the recognition of the ecumenical patriarchate in Constantinople. There is no violation of the canons to participate with the Anglican church. The Methodist church also has bishops. I had communion connection with them but I did not serve Holy Communion with them. There is no rule, canon or provision of the constitution of the Serbian Orthodox Church which prevents a bishop from owning property in his own name. I see the reference in page 19 to Bishop Nicholai. I never heard that statement of Bishop Nicholai that is quoted there. This is the same Bishop Nicholai who came to the United States and died here. I did own some property in Los Angeles. I purchased it with my own funds and

later sold it. I never had any property in California with buildings on it. I've never owned any property in Waukegan. I owned some property in Libertyville, 19 acres, which I sold to the monastery without any increase in price. Both Bishop Firmilian and I and Reverend Brkich bought approximately 100 acres of land in Canada. I sold my interest and I don't know whether Bishop Firmilian and Father Brkich sold theirs. With my priest, Reverend Stojanovich, I bought around 100 acres of land near Niagara Falls. I sold my part to him. I purchased some property in Lake Villa, a nursing home. Later I shared it with Mr. Stokovich and finally I sold him my interest. It was five to ten years ago I sold him my half of it. I sold him half of it to make payments on the Shadeland property in 1950. Later on I sold the other part of it. I have read the paragraphs on pages 19 and 20 regarding Shadeland. DX 213 is a copy of the agreement between myself and Standard Life Insurance Company for the purchase of Shadeland for $40,000.00. I was in a situation of bringing from Europe displaced Serbs and I needed a place to bring them. There were many thousands of them over there in Germany, in Austria and in Italy. One evening the president of that corporation called me. He told me he knew I was looking for a place for displaced Serbs and he told me about the Shadeland property. We went to that property and there were 1,300 acres of land available. He offered to donate $1,500.00 toward the purchase price of $40,000.00 and take payments of $2,500.00 over the first five years. I agreed to sell it to the diocese as indicated in DX 202 for a total of $60,707.09. We had two meetings of the diocesan board and they asked me to transfer the property to the diocese and I agreed for the same

price, the amount which I paid for it, and for the money which I invested in it. I invested $20,000.00 in it. I sold my Lake Villa nursing home to Mr. Stokovich for $20,000.00 and invested that in the property at Shadeland. The council bought it for my expenses, without any profit. DX 201 and 201A are the minutes of the committee for Shadeland Farms and it sets forth the investments for improvements that I made. I did not make any profit on the sale. (DX 213 is admitted in evidence).

I've read the paragraph on page 20 about the auditing committee. In 1962 I supervised the financial books of Shadeland. From the time the diocese bought the property we formed the Shadeland committee that took care of it. Then in 1962 we bought another property in California and the people there wanted the present Bishop Irinej who was in charge of Shadeland to be transferred to California. I put in his place at Shadeland two men and I came every month once or twice to look the property over and look at the books. The auditing committee which we headed looked at the books in January, 1963 and they found it satisfactory. DX 22 is a report of the diocesan control board dated January 17, 1963 signed by the president, Milan Radakovich. Until 1962 Bishop Irinej had been at Shadeland. Every year the auditing committee looked at the books. Father Grozdanovich was at Shadeland until he submitted his resignation in 1963. (DX 22 is admitted in evidence).

PX 25 is a copy of the auditing committee's report for the period ending July 15, 1963. I did not misappropriate any funds from the Shadeland property. I gave donations many times to the Shadeland property. The $2,331.00 referred to on page 20 is the

Patriarchal Relief Fund. I founded it to help the Metropolitan Damaskin delegation. This money was
8204 sent to different churches in Yugoslavia. DX 214 is a list of the expenses for which the fund was used. (DX
8205 214 and 214A are admitted in evidence). Regarding the next charge, I sent a total of $2,300.00 to Metropolitan Damaskin, the bishop of Bachka and Bishop
8206 Vasilije. The rest of the funds were used for ex-
8207 penses of the delegation in the United States. Mrs. Polich sent me $400.00 and I did not charge the diocese for my expenses. For the period 1940 to 1945 when I traveled I did not make any charge for
8208 travel expenses. From 1945 on I did. When anybody at the diocesan level traveled their expenses were reimbursed by the diocese or the church congrega-
8209 tion where they were going to visit.

DX 215A, B, C, and D refers to the incident charged on page 21 of the indictment with reference to per-
8210 forming a marriage. (Exhibits are offered and received). I've never asked for or accepted any money
8211 with the promise of ordination of any priest. On page
8212 22 I see the reference "Bishop Dionisije is born as
8213 an intriguer" and this is not true. I knew both
8214 Duchich and Fotich during their lifetimes. Duchich died in 1943 and Fotich in 1960.

The charge concerning Bishop Nicholai and Bishop Irinej is false. I received both of these bishops as immigrants from Austria after World War II. I
8215 never threw either of them out of the monastery. Bishop Nicholai did not live in the nursing home that I owned when he was sick. After our church national assembly in 1952 he made a proposal for three or five bishops for our assembly and the people would not accept it. So he packed up and went to New York and from New York to South Canada to the Russians.

His proposal was that we break away from Belgrade. I was not in favor of that proposal at the time. In
8217 1957 Reverend Firmilian went to Chicago and lived in the YMCA. I called the ecclesiastical court to session and we spoke about this and decided that one priest should go and see Reverend Firmilian. He had proposals and agreements with St. Vladimir Seminary to be a teacher and they accepted him. I released him to go there and gave him my blessing. He left the monastery in 1957 without my permission.
8218 He did not prior to leaving say anything about being ill.

The next charge is about Sava Mikovich. He resided at the monastery. He wanted to go to Yugoslavia to die and he submitted an application and I
8219 gave him permission to go. The next charge concerns Reverend Radovonovich who I knew. This
8220 charge is false. He was working in our office but he was also parish priest of our Libertyville parish. Then he became parish priest of Racine and started to build the church. Finally I asked him what he wanted to do—stay here or be parish priest in Racine. He wanted to go to Racine so I appointed him. He
8221 went there and died later. The charge concerning Reverend Jelich is false. He is a very good priest who wanted a bigger parish. He is presently in
8222 Youngstown, Ohio. I appointed him to Youngstown as parish priest and he is still there. There is no truth in the next charge about executive board members. There is no truth in the next paragraph by the Association of University Educated Theologians. The
8223 charge on page 24 concerning the South St. Paul Parish is not true. People from South St. Paul threw their priest out. I defended him two or three times,

but later they closed the church and said they would keep it closed if he remained. Our Ecclesiastical
8224 Court brought judgment against the priest. This incident happened in 1956 or 1957. He became an insurance agent. The priest at South St. Paul, Rever-
8225 end Djurich, is the same person who has made charges against me in the indictment. The next paragraph on page 24 concerns the priest in Indianapolis that I sent Reverend Burkich to investigate. The people did not want him to be their priest. I followed the recom-
8226 mendation of Father Burkich and removed him. This
8229 priest from Indianapolis who was discharged upon the recommendation of Father Burkich, also made charges against me in the indictment. I read the
8232 paragraphs toward the bottom of page 24, where it says "Bishop Dionisije is a mental case".

8233 I have seen Stojan Lazarevich several times. I don't know whether he is a physician or psychiatrist. I don't know where he is now. He was a student when I was a Professor of Theology in Yugoslavia. He came to the United States later on. He conducted the choir in the church congregation in Gary, Indiana.
8234 He is a musician, not a musical doctor. Steven Prostran died several years ago. He is not a medical doc-
8235 tor. Dr. Seferovich mentioned on page 25 has never been my physician. He served on the Diocesan Council as member and vice-president. I have never had occasion to go to him for treatment, and he has never given me any type of physical or mental examination. I have never, to my knowledge, suffered from any type of mental disorder. I have never consulted a
8236 psychiatrist. My physician is Dr. Lawrence Day in Libertyville. He has been my physician for ten or
8237 fifteen years. The charges are false. (Counsel notes

that the next pages of the indictment are conclusions attributed to various persons and there is nothing that the Bishop can either affirm or deny.)

8239 I know of no Reverend Prostran other than the one I have mentioned who is dead. Reverend Paul Zelich, mentioned on page 25 is dead. I don't know of another Stojan Lazarevich other than the man I have mentioned. I know Momchilo Djuich. He was
8240 a priest who decided to become a lay person when he was a Chetnik or something like that. He was a priest in Dalmatia in Yugoslavia, and never a priest in America. I had personal contact with him until 1956 or 1957. His organization supported our fight against the Regime in Yugoslavia. I may have had contact
8241 with him in the beginning of 1963. At that time he renounced King Peter and accepted his brother, Tomislav, as the King of Yugoslavia. In April or March,
8242 1963 he came with some group of people to throw us out of the Diocesan Council meeting and take the diocese into his own hands. He published his change of allegiance in his newspaper.

8243 PX 216 and 216a are my circular letter dated June 1, 1962. This is the letter which is referred to at the top of page 30 of the indictment.

8244 (DX 216 and 216A are admitted in evidence).

8245 I never wrote any article of separation of the Serbian Orthodox Church and the Canadian Srbobran as charged on page 30. I wrote an article about the arrival of the delegation and recommended receiving the delegation all over the United States. The charge
8246 that I wrote an article announcing a split in the
8247 church is false. The charge that I behaved toward the delegation with sarcasm and calculation is not true. It is not true that I criticized them publicly and pri-

vately. I did not issue orders that the delegation be treated other than cordially and proper. I did not issue any leaflets against the delegation. I did say openly in a few gatherings that we as American citizens and the American Diocese are not obliged to listen to the Government of Yugoslavia. We respect our church over there and our delegation who are arriving here, but we are free and loving people, and obedient to our Constitution. I went with the delegation to the Chicago airfield, brought the tickets to them and I paid for their baggage and said goodbye, and that's all. I did not say "let them go to their Tito". I was never in New York with them.

(Counsel stipulates that PX 195 is the report of Metropolitan Damaskin produced by Bishop Firmilian after a trip to Yugoslavia). The first time that I saw the report of Metropolitan Damaskin is today. I have not had a chance to read it. (DX 217, the English translation of PX 195, Damaskin's report, is admitted into evidence). The June 3rd letter referred to on page 30 of the indictment is the letter which has already been admitted as PX 71 and PX 84b. PX 74 is the letter of May 25 referred to in the Indictment on page 30. These two exhibits, PX 71 and PX 74, set forth my position with reference to the illegal and uncanonical decisions of the Assembly.

PX 78 is my letter of June 28 which is referred to in the indictment. In this letter I explained how they arrived to ordain Reverend Lastivika for Bishop and later on to investigate some charges against me. I see the charge in the middle of page 31 regarding the decision of suspension. PX 78 is the letter to which the indictment charge refers. I declared to the Investigating Committee on July 5 that I am not the Bishop

of the Midwest Diocese and I would not sign any minutes which they were preparing in that respect. I did not release my duty to Reverend Firmilian on June 6, because the Diocesan Plenum decided not to relinquish the Diocese until the Assembly in September. I discharged Firmilian from his duties on June 7. On June 12 I discharged Reverend Burkich. I also discharged Reverend Klippa. They were discharged because they abandoned our Diocese and they violated the Holy Canons. They had to be loyal to our Diocese and to me until a trial could be completed against me. These three priests violated Canon 13 (DX 199) of the Pedalion.

On June 6 there was a meeting of the Plenum of the American-Canadian Diocese in Libertyville. I am familiar with the actions taken by the Plenum on that date. The discharge of these three priests was because they renounced me as Bishop.

DX 218 and 218a is the report that I sent to the Synod regarding the visit of Damaskin delegation in 1962. DX 218 is the English translation. I waited for Metropolitan Damaskin to make a joint declaration but he declined so I prepared my own at the end of December, 1962. (DX 218 and 218a are admitted).

(Counsel for plaintiffs stipulate that the "Rudder" is an authentic compilation of Canon Law). (DX 199, Canon 13 is admitted in evidence). DX 199 is a Xerox copy of pages 469 and 470 of the "Rudder", a compilation of all the sacred and divine canons of the Orthodox Church.

I have the bottom of page 32 of the indictment before me. I testified about this alleged meeting with Bishop Hrisostomos before. I was never called by him for any conference. The top of page 33 there is

a reference to Reverend Petrovich. He is a priest at the present time in Cincinnati, Ohio. He first came to our diocese five or six years ago. He brought documents that he had been a priest in Europe. This is not the only priest that I have accepted into my Diocese from Europe since I have been Bishop of this Diocese. I have accepted approximately 35 ordained priests in the 23 year period from 1940 to 1963. I see the paragraph on page 33 referring to my oath. I did not violate my Bishop's oath. DX 219 is a correct English translation of the oath I gave when I was elevated to the rank of Bishop. PX 37a is in the old Slavic language and it is in my handwriting. DX 219 is my English translation. (DX 219 is admitted).

Prior to the decision of July 27, 1963 wherein the Holy Assembly declared that I had broken my oath, there had not been any trial of the charges that were pending against me. There weren't any hearings. I received the indictment sometime in October. I did not receive any supplement to the indictment. I did request the enclosures and that was denied. (Counsel notes that the paragraphs on page 13 of the Judgment numbered 6, 7, and 8 are mentioned for the first time in the Judgment and do not appear in the Indictment) (Counsel notes that the allegations on pages 18 and 19 of the Judgment do not appear in the Indictment nor in the enclosures) (DX 5 and 5a are admitted in evidence) (DX 14 is refused) (DX 58, a through e are received in evidence) (Court admits Defendant's Exhibit 61, 67, 68, 69, 70, 71, 73, 74, 75, 77, 78, 79 and 198, and their Serbian counterparts.) (DX 220 and 220a are admitted in evidence.)

I have been a citizen of the United States since 1946. DX 19 is the letter that I wrote to the Synod on November 18, 1963. DX 200 is a letter to me from

the Synod dated June 19, 1958 and the Serbian is 200a. I received it shortly after the date it bears. (DX 200, 200a and 200b are received into evidence) DX 221 is a true and correct copy of the original document transferring the mortgage and certain property from the Serbian Eastern Orthodox Diocesan Council to the Serbian Eastern Orthodox Diocese for the United States of America and Canada, a Religious Corporation. The signature appearing on page 4 is that of Reverend Firmilian, secretary of the Diocese. (DX 221 received in evidence). DX 222, a certificate dated September 8, 1941, is a true and correct copy of the certificate and my signature, and that of Reverend Firmilian appears on the exhibit. (DX 222 admitted in evidence) DX 223 is a true and correct copy of certain Resolutions of the Board of Directors of the Serbian Orthodox Monastery of St. Sava dated May 22, 1961. The second page is the Resolution adopted. The signature on the bottom of page 1 is Reverend Balach, at the present time our Bishop in Australia. (DX 223 admitted in evidence) DX 224 is the English translation of a letter dated July 8, 1946 to me from the Synod. It is signed by Metropolitan Joseph and bears the seal of the Synod. Reverend Gacinovich was a Serbian Priest in Pittsburgh. (DX 224 and 224a are admitted in evidence)

At a time a priest in the Serbian Orthodox faith is ordained, he takes an oath to his Bishop that he will be obedient to the Bishop as to Christ. When he takes his oath the priest does not swear any allegiance to the Holy Assembly of Bishops, the Patriarch, or the Holy Synod.

I can give examples of Bishops who have been either excommunicated or defrocked. Archibishop Daniel was expelled from the church and defrocked in

1271, Patriarch Jeremias in the Sixteenth Century who accepted unity with the Roman Catholic Church was expelled from the Serbian Church. Archibishop
8371 Paul was defrocked in the Sixteen Century. In the
8372 Nineteenth Century Metropolitan Michael and three other Bishops were defrocked and expelled at that time because they did not agree with some action of
8373 the Serbian Government. In 1922 Bishop George was defrocked and sent to the Monastery to live as a Monk.

8381 IRINEJ KOVACEVICH testified as follows:

Direct Examination continued.

8383 After the Sabor in 1963 I became a president of the Board of Directors for the Shadeland Estate and became head of the Board of Ways and Means for the finances of the entire diocese. As president of the Board of Directors of Shadeland, I presided at all
8384 board meetings; directed all fund raising drives; supervised all the employed personnel; worked with the board on improvements, buildings, rebuilding everything that took place at the Monastery Shadeland. I still hold that position. The disbursement of all funds are decided upon at Board of Directors meetings. There are, however, some regular payments like payroll and telephone and utilities, the authority of which was given to the treasurer to pay as they come due, but all of the disbursements are decided upon and approved by the Board of Directors at their
8389 meetings. Considerable remodeling has been done on the Shadeland premises since May of 1963. This includes the two farmhouses and the old folks home. Remodeling included renovation of the outside and
8390 installation of a completely new interior. DX 225

is a photograph of the old folks home as it exists
8392 today. The barns and milking facilities were like-
8394 wise remodeled. Additional silos, garages and tool sheds have been built on the property. In addition a
8395 large number of machinery and farm equipment has been acquired. We also have a caterpiller bulldozer and two medium size trucks. We have cleared about
8397 140 additional acres of land and installed drainage
8398 tiles in several fields. Additional wells have been drilled and lines installed bringing water to the picnic area where it was needed. The wells are approximately 1200 feet from the picnic area. There is a new church under construction but it is not yet completed. To date we have paid a little over $47,000
8401 for what has been completed on the church and there is about $14,000 collected toward completion. These funds were not on hand prior to May of 1963. The funds which were on hand before 1963 amounting to $19,000 or $20,000 are at present in the possession of the Serb National Federation in Pittsburgh and have not been released to us for use in this project. They were collected for the church at Shadeland but have not been released. All the funds used for the
8402 church have been raised since 1963.

Most of the improvements made at Shadeland are a result of donations raised from different church congregations since 1963. We have also received a number of gifts for use at Shadeland. For example 400
8403 squares of galvanized roofing, each square being 10x10 feet. Every year since 1963 I have received between 25 and 50 tons of nitrogen needed for the corn on the farm as a gift. We have also received tons of
8404 hardware and fencing, heating oil and other things. The only restriction placed on these gifts by the

donors was that their names not be publicized. Contributions came from persons who recognize or pay
8405 allegiance to Bishop Firmilian, Stefan, Sava or Udicki. Shadeland is maintained for the use of all the people of the Serbian Orthodox Church. We have, for instance, homes for the aged which are open to all. In fact, four residents in the home for the aged do belong to the churches now under Bishop Sava. In fact Bishop Firmilian's nephew Father Balach from Pittsburgh brought a patient not too long ago who is a member of his church, but he is at the home.
8406 I have never refused anybody. No one has ever been refused either in the camp, the children's camp nor at any of the celebrations or to the home, the church or the chapel which exists today. The capacity of the children's camp is about 100 at any given time. During each summer since 1963 the average attendance has been between 400 and 500 children. I have very often seen people attending affairs conducted at Shadeland who I know to be faithful to and pay allegiance to one of the three new bishops. For example, half of the executive board of the church at Alquippa attended a Slava at Shadeland and were very friendly and conducted themselves decently. No one did anything wrong to them. A Slava is a yearly
8407 celebration of a patron saint at Shadeland. It is a public gathering. From 1963 to date the same policies and conditions with regard to the use of the premises to which I have just testified in Shadeland exist to the use of the St. Sava mission in Jackson, California. My connection with the St. Sava Mission in Jackson is that I was appointed director in December of 1961. From that time until the Sabor in 1963, I remained
8408 as director and after '63 I was elected president of

the Board of Directors for the St. Sava Mission until today. My duties were almost the same as those I performed as president of the board at Shadeland.

DX 231 is a photograph of the children's camp at St. Sava Mission in which four buildings are depicted. Two of the buildings were completed on the outside prior to 1963, but the buildings were finished and small items added inside subsequent to that date. Of course all the furnishings were purchased afterwards. At present there are four buildings on the site. The two buildings erected before May of '63 were the administration building and the boys' dormi-
8410 tory. Since then we have built a girl's dormitory and a building in which there are two classrooms and eight apartments for the people who work for the children. DX 232 depicts the administration building and a girls' dormitory. All of these buildings are air-con-
8411 ditioned. DX 233 is an olympic size swimming pool used for the bigger children and is in the middle of the pump house. In May of 1963 only the excavation of the swimming pool had been completed and the pool was finished subsequent to that date. DX 234 depicts the administration building where there is a kitchen, a dining room, a stage, two offices and other facilities. In May of '63 this building was built as it is except
8412 it did not have sidewalks and landscaping around it and smaller things required for finishing had not been completed.

DX 235 depicts the administration building, the boys' dormitory and the girls' dormitory and the picture was taken from the newest building we have erected which is a lodge for the people who are working there and for the priests and staff who work at the camp and it also contains conference rooms. All

of these pictures depict scenes at Jackson truly and accurately as the conditions existed at the time the
8413 photographs were taken. Other improvements at Jackson since '63 include a completed playground area, a basketball court, a baseball field and a great deal of playground devices for the smaller children.

We also have improved the roadway between the buildings and the road which leads to Broadway in Jackson which is quite a distance. All of these roads have been black topped. Furnishings in the dormitories for the children include innerspring mattresses and beds that are normally used in everyday homes. The apartment buildings are of the highest quality.
8414 All of the buildings are air-conditioned. All of the improvements in biuldings and such that have occurred at Jackson since May of 1963 have been paid for by donations as at Jackson, we have no other source of income. To the best of my personal knowledge, no donations made toward St. Sava Mission in Jackson, California, were made by persons or groups who pay their allegiance to Bishop Gregory, Firmilian, Sava or Stefan. There have never been any limitations upon the use of the facilities at Jackson as to who could use them, and we have never refused anybody that came to the premises. I have seen people present attending functions who I personally knew did not pay allegiance to me or Bishop Dionisije. Several times when I performed funeral services there were more than 100 people present who were on the other
8415 side. We have been paying the mortgage at Jackson which amounted to $108,000 and the final payment will be made this year. There is a cemetery at Jackson which belongs to the St. Sava Church but is not located on the premises.

My relation to the St. Sava Monastery at Libertyville, Illinois is that I am in charge of the financial business of the diocese and at the same time as assistant to Bishop Dionisije. I have personal knowledge of the improvements and additions that have been made to the facility at Libertyville since May of 1963.
8416 Three old buildings received new roofs and another building has been remodeled. All the equipment for a dining room and kitchen has been purchased and they have been rewired and the plumbing installed. An additional kind of a block building was built. The building in which the Observer was to be and the equipment for it was purchased in all buildings, new furnaces were purchased and gaslines were installed. An 80 bed wing was added to the children's camp and all plumbing and electrical wiring were remodeled. All the roadways and parking lots were blacktopped
8417 and two wells were drilled in addition to two new pumps being purchased. The Observer is the diocesan newspaper printed in St. Sava Monastery in
8418 Libertyville. I believe it began publication at the end of 1964 or the beginning of 1965. It is printed at the monastery in Libertyville and the equipment is owned by the diocese. The equipment amounts to a linotype machine, an offset printing press, a machine that cuts the address plates, an addressograph, cameras of all kinds for enlargement and so on and a plate making machine. It is a complete offset printing shop. The Observer publishes, in addition to the newspaper, Sunday school books and materials
8419 and whatever else we can with a limited number of employed people. To the best of my knowledge all of the funds used to pay for improvements and to purchase the printing plant were raised through

donations. As far as I know all of these donations were made by people who pay allegiance to Bishop Dionisije. I am familiar with the policies at Libertyville regarding the use of the facilities and the premises.

As far as I know no one who came was refused. I know of several examples, for example, a lady who
8420 was here in the courtroom for several weeks whose name is Olga McKinzie was at our place for dinner at one of the events and she was not refused. Not too long ago Father Markovina from a Milwaukee parish came for the funeral of one of his parishioners. I know that Father Velimir Kovacevich, who was the interpreter in this Court, buried one of his parishioners from south Chicago in the cemetery. All this occurred since 1963. Last Sunday I know we had about 14 people from Chicago in the dining
8421 room who I know do not pay allegiance to Bishop
8422 Dionisije. I was invited to have dinner as every Sunday we do with all the people who come to church. After the church service they gather in the dining room and the sisters have lunch all ready prepared and it is a custom that a bishop or the priest reads the prayer and after that lunch is served. These 14 people sat at the same table where I sat. I initiated a drive to raise money for Shadeland, Jackson and St. Sava and for the use of the diocese since May of
8423 1963, and in round figures I would say for the drives that I have initiated and supervised and cooperated in have raised $340,000 for Jackson alone. For Shadeland I would estimate $120,000 and for the diocese in Libertyville for all purposes it is certainly more than $300,000. The summer camp in Libertyville can

comfortably house 160 children together with the help. Summer camp attendance in Libertyville has
8424 been close to 500 on the average every year. The capacity in Jackson is for 200 children at one time and over the summer there are about 400 children in
8425 attendance.

Cross Examination.

8426 The body of the diocese responsible for all financial
8427 problems is the executive board and the executive council. If there is a chief financial body this is it. At Shadeland I was presiding officer of the Board of Directors. The whole board is in charge of the operation and I was presiding. On a day to day basis the man in charge is the administrator or director
8428 of the property. At different times different persons have held this position. From 1963 to date I have been president of the Board of Directors at Shadeland. My duties as such were to preside at meetings, participate in all the projects that were considered by the Board of Directors as far as building or repair and contracts to be awarded. I supervised also what was done in the home for the aged and on the farm, in the camp and so forth. Concerning the day to day operation I lived there and while I was at Shadeland I went to see what was done every day.
8430 The Board of Directors are the men in charge and who are entitled to make decisions. I only have one vote and I cannot vote unless there is a tie. Whatever decision is arrived at at the meeting of Board of Directors it is followed. I did have the power to correct mistakes or make remarks if something was not done in my opinion but I was not a chief whose decisions were to be obeyed. I did not have that
8431 power. Between 1963 and 1970 there were employees

8432 at Shadeland. I would say the average number of employees was about 12. These employees were paid salary. Concerning the hiring and firing of them the administrator would propose it to the board and the Board of Directors does that. Although I am president of the board, I have never tried to hire or fire an employee alone and I do not know what would happen if I did.

8433 These employees report to the administrator if there is one and to the treasurer of the board if there is not. The administrator reports to the Board of Directors. I do not run this property as president of the board acting on behalf of or for the board. I do a lot of work there, but I do not run the property. The two new tractors in DX 228 cost approximately $7,000 apiece without any additional equipment and they are diesel tractors with power steering. We op-

8436 erate a milking parlor at Shadeland and have approximately 90 head of cattle. These cattle are dairy cows and heifers. We have only one bull which is tame as we do not breed cows with bulls, but use artificial breeding. On the average we have about 65 cattle

8437 which are normally fresh in this farm operation. Last year the receipts from milk production were approximately $29,000. In addition to the milk income we derive income from calves which are sold and pigs.

8440 I would estimate that the annual income for the year 1969 was not less than $70,000. The income was derived from the farm operation, the camp, and the old peoples' home. The annual income earned by property is spent on the property. The annual income is greater than the expenses of operation and the excess is put into improvement of the property. I arrived

8443 at Shadeland after my consecration in December of 1963 so I believe I must have arrived in early 1964.

8444 As far as I know, no tilling of the fields was conducted prior to my arrival. In 1964 we paid most of the unpaid bills and tried to reorient the farm problem. I wouldn't say that none of the improvements were undertaken in '64 as I believe the milking parlor was built or started at that time. I do not know

8446 exactly what it costs, but in round figures the cost of remodeling it was about $15,000. The improvement depicted in DX 227 was undertaken 2½ years ago and, as I remember, the aluminum siding alone cost about $1,800. The Board of Directors of which I am president is of a corporation incorporated in the State of Pennsylvania. The Board of Directors are

8447 elected at the Sabor in Libertyville and are the ones who handle the business of the corporation. The members that are entitled to elect them are delegates

8448 to the Sabor. I was not elected as president of the Board of Directors, but, as my post was assistant to Bishop Dionisije who as the Bishop of the diocese is president, the job was turned over to me as a delegation of one of his duties that I am to perform. I do not know of a specific bylaw or regulation permitting this but only of the general rules that a bishop has a right to assign to his assistant any duty he feels necessary to be done. By his position, the bishop is president of all boards in the diocese. This is provided for in the Constitution of the Serbian Orthodox Diocese for the United States of America and Canada.

8449 This Board of Directors is both at the same time a diocesan board and the board of a corporation. There are not two parts of it. The diocesan Sabor elects the boards that are going to handle each of the businesses that are within the diocese and one of these boards, which is the Board of Directors for

Shadeland, is elected at the Sabor with the specific duties to govern that monastery. As Bishop Dionisije's assistant I was assigned to be president of that
8450 board. As far as I know the Board of Directors of Shadeland existed before I arrived there. Since the time I began participating in the Sabors the Board of Directors have been elected in this manner. I arrived at Shadeland in 1955. This was my full time
8451 position. I was there for six years and there was a Sabor in '56 and another one in '60. I attended those Sabors and a Board of Directors for Shadeland was elected at the 1956 Sabor and again at the 1960 Sabor.
8453 I really do not know if there was a Pennsylvania
8454 Corporation in 1960. I thought there was a corporation but I do not know for sure myself. I did not incorporate it.

On PX 105A is the name the Right Rev. Bishop
8455 Irinej and my signature appears. This however is a new nursing home that we incorporated; this is the St. Sava Home that I participated in and is a corporation which is in the process of building a 100
8456 bed nursing home. I know that the diocese received permission from the state of Pennsylvania to operate the home for the aged, the camp, and other necessary facilities at Shadeland, Pennsylvania in accordance with the law of the state of Pennsylvania. I saw that document and I am sure I can even get it. But whether it is a document of incorporation or not I do not
8457 know. I was director of that property from 1955 and the diocese owned it from at least '51 or '52. I would
8460 love to have such a farm that grosses $50,000 to $70,000 per year, but the one at Shadeland does not gross that much money from the sale of milk, as it is in the developmental stage. We did not have so much

time to get the best cows there are and maybe the best producers could earn this kind of money but ours
8461 does not yet. I was president of the Board of Directors of the California corporation from 1963 to the present. I was at Jackson permanently from the end of '61 until the Sabor of '63. I have returned there in my capacity as president of the Board of Directors and am familiar with the improvements to that property.

The administration building depicted in DX 234
8462 was commenced in May of 1962. The building itself was finished by July but the landscaping and sidewalks and inside furnishings were not completed by that time. The building cost in the vicinity of $100,000. The swimming pool depicted in Exhibit 233 cost about $40,000. The Jackson property earns income through the meals prepared for celebrations by the Serbian Sisters' Circles. The rest of it is only
8463 through donations in money or labor or material. The annual income at Jackson is approximately $5,000.

A large amount of the donations come from one family, the Andja Polich family. This family did donate the administration building at Shadeland and from time to time gave donations but I would not say that their donations make up 50% of all donations. Concerning Libertyville I am assigned a duty of collecting money and finding ways and means to collect funds. I am one member of the Executive Board. In that capacity I do participate in disbursements and other business, but I am not in charge. The Libertyville property does earn income I should say that its income exclusive of donations comes to approximately $25,000. I became a school teacher

in 1937 and taught my students all the subjects. My
8465 field of study in Columbia University from which I graduated in 1952 was theologian philosophy. Monk
8466 Kresojevich was at the property when I arrived there. It is not true that Kresojevich would disappear for several days at a time and then return. Father Kresojevich went to serve on weekends in churches
8468 where he was assigned, but he did not disappear. I was not elected Bishop by the Holy Assembly of Bishops. There have been no other men besides Bishop Balach who have been elected bishop of the Serbian Orthodox Church by anybody other than the Holy Assembly of Bishops. I was elected by the
8469 church National Assembly or Sabor in November of 1963. At this assembly which was the 10th church National Assembly which was composed of duly elected delegates from all the church congregations I have personal knowledge that there were delegates from churches who now pay allegiance to Bishop Firmilian, although I do not know whether they participated in the election.

8470 I have testified that in the American-Canadian Diocese in its external affairs, it is more congregational than hierarchal. The difference is that in a strictly hierarchal church, like the Roman Catholic Church, the bishop appoints the priests and there is no congregational participation in it. For example, in the matter of church property the congregation's property in this diocese belongs to the members of that congregation while in the Roman Catholic Church it does not. The Diocesan Council in the Serbian Orthodox Diocese for the United States and Canada has more participation in the governing of the diocese
8471 than in churches which are strictly hierarchal. There

are duties and directives or assignments given to the laity through the Constitution of the Serbian Orthodox Diocese to a greater extent than in a strictly hierarchal church. The priests in the Serbian Church apply for a certain parish which is vacant through the bishop and if the bishop tells the priest he may not apply that is the end of it right there. A priest does not go on to the list of candidates unless his
8472 application has gone through the office of the bishop. The congregation has the right to dismiss the priest for any reason only they are required to give him one months' notice. They can inform the priest or the bishop that they are giving him notice and that he will not be their priest any more. The bishop will accept that and appoint the priest to another parish. The bishop is bound by that decision of the congregation. If there is a dispute between the priest and the congregation that Diocesan Council takes the case.
8473 The procedure is that they would appoint a committee to investigate. After the investigation is complete they hear both sides of the argument and decide what will happen. The decision is binding. The congrega-
8474 tion can't dismiss the priest if there is a dispute.

PX 30 which is the Constitution of the Serbian Orthodox Church and Article 117 substantiates what I have testified to. It provides "The church school congregation is not authorized to discharge a priest or to bring another in his place without the knowledge
8475 or permission of the diocesan bishop." Knowledge and permission are not required; it is knowledge or permission.

8477 The Serbian text before me states, "The church school congregation is not authorized to without knowledge and permission of the diocesan bishop to
8482 fire its priest nor to bring another one." A church

school congregation cannot give notice to a priest unless there is a regular meeting at which a vote is taken. The bishop might say no to their notice of dismissal, but that is not the normal way of doing things. If a majority of the church congregation vote to give notice to the priest that usually ends it. The bishop accepts the majority vote. That has been
8483 the practice in this diocese as far as I know for all time. Article 117 of the Constitution is followed as the bishop is always notified and has knowledge of the intention of the church or of the priest. If there is no dispute this ends it and if there is a dispute the
8493 Diocesan Council has to clear up the problem. A priest may not leave or resign from his position with
8494 a parish without obtaining his bishop's permission. For all internal affairs of the church he is directly responsible to the bishop and to the eccleseastical court. For all external affairs that is administration of prop-
8495 erty of the church where he participates raising funds building the church or something he works independently together with his executive board and the parishioners and members of the church. I believe
8496 Article 120 substantiates this position. The external affairs to which I had reference and stated that a priest is responsible only to his parish include financial matters. The priest does not however pay the gas bill or the telephone or the heating or anything. It is paid by the Executive Board; that is the membership.

8497 The priest is paid by the membership and the Executive Board at the yearly meeting with the members decides on the priest's salary. The bishop does not. The bishop can do nothing whatsoever with regard to salary that is increase or decrease. I am

8499 familiar with Article 143 of the Constitution. The Article speaks about disputes. As I interpret it only if there is a dispute would it go to the bishop but if a priest were to ask for less money as happens often it would never go to the bishop to be allowed. However, if there were a dispute about their wanting to decrease his salary in order to punish him for something, then it has to come to the attention of the diocesan bishop and the Diocesan Council.

8500 A group of Serbian Orthodox people joined toget-
8501 er to form a church congregation and they are required to sign a petition to the bishop that they intend to be members of that congregation. They submit a proposed bylaws and have to give a promise in their petition that they will be willing to organize a fund for building a church and the necessary facilities that may be required for a church congregation
8504 to exist. This has been the practice and it may be provided for in the Constitution. The guideline for all the work in the formation of a church school congregation is the Constitution of this diocese. A newly formed congregation becomes an integral part of
8505 the diocese. The practice has been that when a church school congregation at its yearly meeting, elects the Executive Board, an Auditing Board and all the boards they are supposed to elect. They send to the diocesan bishop a list of elected persons and the diocesan bishop has it in his office. It is their Christian
8512 duty to do so and they are obliged to do it. Each new member of the church school congregation must take an oath that he will follow the orders of diocesan
8513 authorities. I did not say that the Serbian church is a completely congregational church, but that in its external affairs this diocese has some features of

a congregational church. If a church school congregation board in the Serbian Orthodox Church takes some action which the higher diocesan authority feels is overstepping that board's authority the higher diocesan body they retire the board under proper procedure.

The Serbian Orthodox Church with its see in Belgrade is hierarchal and Episcopal in nature and each diocese of that church including the American-Canadian Diocese is an organic part of the church with its see in Belgrade with one difference that this diocese has a Constitution. The fact that this diocese has its own Constitution differs it from the life of the diocese in Yugoslavia. If a new church school congregation is formed in this country it need not become part of this diocese because we have Serbian Orthodox Church congregations under the Russian Orthodox Church and that have been so for many years. They are not considered part of the Serbian Orthodox church. They are Serbian Orthodox people but not part of the American-Canadian Diocese. Although the diocese in this country has its own Constitution it need not follow all the rules and regulations of the Serbian Orthodox Church. In the Constitution of the Serbian Orthodox Church there are sections which describe the life of the diocese and church congregations and they are different from what is required in this diocese so the parts which are general for all dioceses are followed by ours but the parts which are connected with the life of this diocese and the dioceses over there are different and are described by the Constitution of the American and Canadian Diocese. And they are proved by the Holy Assembly of Bishops. I was elected as a bishop of this diocese by the church National Assembly held

in November of 1963. I was elected a Vicar Bishop. There is no provision in the Constitution of this diocese as approved by the Holy Assembly of Bishops which provides for the election of a Vicar Bishop. I received a letter in which it is stated that the bishops who consecrated me did so on the service during the holy liturgy on such a date. It is not signed by the Patriarch. I testified that historically bishops in the Serbian Orthodox Church have been elected by clergy and delegates of the diocese. Metropolitan Prokopius was elected around 1855 and he was the bishop of the Serbian Orthodox Diocese of Sarajevo. He was consecrated at the Ecumenical Patriarch of Constantinople. I don't believe the Constantinople Patriarch did it himself as two bishops are needed and he probably ordered any of his bishops to do so. That diocese at that time was under the jurisdiction of the Ecumenical Patriarch because the Serbian Patriarchate had been abolished. There is another example of the election by the clergy and people in the Metropolia of Montenegro where Peter II was elected in 1830. He went to Moscow and was consecrated in the Russian Orthodox Church. At that time the Metropolia of Montenegro was an autocephalous church. Peter I who was St. Peter of Cetinje was canonized after his death not during his lifetime. He was elected by the people and the clergy of the Metropolia of Montenegro and was consecrated by the bishops of the Metropolia of Karlovic. I believe this occurred in 1782. Another one I mentioned was the Metropolitan for the Diocese of Sarajevo Metropolitan Dionisije and his Vicar Bishop Sophronius who were both consecrated by the Patriarch of Constantinople. At that time the dioceses under the jurisdiction of the Patriarch. To the best of my rec-

8528 ollection this was about 1860. Another one I mentioned was Savo Kosanivich who was to be consecrated by the Ecumenical Patriarch but refused the consecration until the people and the clergy of his diocese elected him and when the election was over he was consecrated. This was in 1879. He was not consecrated by the Holy Assembly of the Serbian Orthodox Church. He did not refuse consecration but when the Ecumenical Patriarch expressed his willingness to consecrate him he in turn politely answered that he would rather wait until clergy and the people elected him as had been the custom in that diocese. The Serbian Patriarchate was officially re-
8529 established in 1920. Since 1920 I do not know if a bishop of the Serbian Orthodox Church was ever consecrated by someone other than the Holy Assembly of Bishops. I know that priests who were in Yugoslavia were ordained by Russian bishops.

The money necessary for the improvement at Jackson and Shadeland and Libertyville came pri-
8530 marily from contributions. Fund raising drives were organized for the different entities and usually a fund raising drive was for a specific improvement. I
8531 do not know how many of them there were. I believe there were about 2,500 donors to Jackson, 2,000 at
8532 Shadeland and I do not know about Libertyville. I was not personally acquainted with every donor. I can state easily where the allegiance of each donor lay for when the committees reported on what they did they agreed not to visit people who did not be-
8533 long to their church congregation. We did not go to congregations who remained with the Mother Church as they would not receive us for the dispute was so terrible that the people did not talk to each other
8534 in some of the parishes. This is true on both sides.

In Plaintiff's Exhibit 145B is an announcement of the election of the Board of Directors at Shadeland in 1960. My name appears there as Abbot of the Shadeland Monastery but I was not elected. I am on the Board by virtue of my position as bishop. On
8535 page 2 of this exhibit under #3 is a list of all the boards of the diocese. All of the boards are elected at the church National Assembly. The Board of Directors of Shadeland is a diocesan board and I be-
8536 lieve an election was held in 1956. As far as I know the Jackson property was transferred to the St. Sava Mission for the diocese and the Board of Directors is elected at the Sabor to govern that property and improve it. I was consecrated by Archbishops Gen-
8537 ady and Gregory who were bishops of the Polish Orthodox Church. The Polish Orthodox Church is an autocephalous church and its Holy Assembly is located partly in Poland and partly in a group that immigrated in Europe. The two Polish bishops stand
8544 in apostolic succession and they are also referred to as Ukrainian bishops. There are two monasteries in this diocese, one St. Sava in Libertyville and the other Monastery of Most Holy Mother of God in Shadeland.

8545 The monasteries are governed by the Sabor through the Board of Directors that are selected at the Church National Assembly. It is true for both of the monasteries. The spiritual life of the monastery is under the direct control of the bishop through its ecclesiastical court. The administrative part of it is in complete control of the Board of Directors who
8546 certainly are obliged to bring the reports to the Sabor and explain what they have done and present new plans if they have them. I have read article 156. The bishop is President of the Board. The bishop

cannot be excluded and I specified that when the spiritual life of the monasteries in question it is under the direct control and supervision of the diocesan bishop. Having read Article 156 my answer is still the same as to the administrative control of the monastery because it has been the practice that the administration of the monastery is done by the Board of Directors this President is the bishop of the diocese. I have never seen what is marked as Plaintiff's Exhibit 216 before. In connection with churches or bishops that have been elected by the laity and by the clergy something has been going on of which I am aware in the church of Macedonea which is connected with the Serbian Patriarchate in Belgrade.

Cross Examination.

The bishops that diocese or metropolitanate of Macedonea are elected by the church peoples assembly as recently as 1958 and these bishops were consecrated in '58 by the Patriarch former Bishop German and Bishop of Bachka Nikanor and the Metropolitan of Macedonea Dositei. The Metropolitan of Macedonea is a Serbian metropolitan. Two bishops were elected at that time Bishop Clement and Bishop Naum. These bishops were elected by the people and the priests rather than by the Holy Synod in Belgrade.

Recross Examination.

Bishop Naum and the three other bishops that were elected were not appointed by the Holy Assembly of Bishops and were never at the meeting of the Holy Assembly. The election of Bishop Clement was accepted by the Holy Assembly of Bishops and he was consecrated for his diocese by the Holy Assembly.

DIONISIJE MILIVOJEVICH

Cross Examination (Continued)

I was elected Vicar Bishop in 1938 and consecrated by Patriarch Gabriel, and two or three other Bishops. It was provided in the 1931 Constitution that every election of Bishop be confirmed by the Government. Paragraphs 98 and 99 of the 1931 Constitution deal with the election of Bishops. I did not receive a grammata when I was elected Bishop. PX 29 is the paper which I received from the State. The Synod would notify the Government whom they plan to propose as Bishop Vicar or Bishop of the Diocese and ask for confirmation by the Government. When the Government confirms that, they elect the Bishop. The Assembly elects Bishops and the Synod keeps a list of candidates. In advance of the election the Government is consulted so that there is not trouble with a confirmation later. The Assembly elects after they agree with the Government.

I did not receive a grammata as is enumerated under Article 100 of the Old Constitution. Patriarch Demetrios issued such grammatas to some Bishops, but later on they stopped that practice and didn't issue any grammatas. I did not receive a grammata as a Bishop of the Serbian Orthodox Church, except for this document, the confirmation of the Government. At my Deposition I did not produce anything other than my appointment as Bishop from the State. I never received a grammata from the Holy Bishops Synod or Patriarch. The Patriarchs assigned me my duties as Vicar Bishop. My election as Diocesan Bishop was conducted by the Assembly. The Synod and Assembly supervises the work of Diocesan Bish-

ops. After Bishop Mardary's death, Bishop Irinej assumed the administration of the Diocese. Patriarch Varnava assumed control of the diocese for a period between Mardary's death and Irinej's appointment as administrator. Damaskin became Bishop of the American Canadian Diocese until the Diocese in Yugoslavia was vacant. I was elected by the Assembly after they agreed with the Government on my election.

Bishop Mardary was first elected for this diocese by the Russian Holy Bishop's Synod, but he was not consecrated. Later he was elected by the Assembly of the Serbian Church. He was consecrated by the Patriarch and two or three Bishops, and he came here as Serbian Bishop with the approval of the Government. Mardary was elected American-Canadian Bishop by the Russians when the diocese was called the Serbian Diocese under the jurisdiction of the Russian Holy Synod. The Diocese was under the jurisdiction of the Russians in 1920. It had to pass from the Russian to the Serbian jurisdiction and that took two or three years. In 1920 Bishop Nicholai came and made the recommendation to the Holy Assembly. Bishop Mardary was a Bishop of the Serbian Orthodox Church.

While the Kingdom of Yugoslavia existed prior approval of the Government was necessary before a Bishop was elected by the Assembly. I consider myself a member of the Serbian Orthodox Church and the Assembly of Bishops. I have heard that there are divided opinions in the Assembly as to whether I am considered a member of that body. I know of occasions when Bishops of the Serbian Church were elected other than by the Holy Bishop's Assembly. During the period of the Nemanich Dynasty, the

people elected Bishops. In the time of Prince Obrenovich he appointed the Bishops himself. The first Nician Council in 325 issued an epistle stating that the people have to participate in the election of Bishops, and that procedure was followed through the churches in history to the present time. For hundreds of years people have elected Bishops to the Orthodox Church. At the present time the people do not participate in the Serbian Church. Until 1945 the people participated in the election of Bishops and the Patriarch in the Serbian Orthodox Church.

My Vicar Bishop, Bishop Irinej, was elected by the Church National Assembly in 1963. He was not elected by the Holy Assembly of Bishops. Bishop Balach was elected by the clergy and people of Australia as Bishop of the Serbian Orthodox Diocese of Australia. I believe he is a Bishop of the Serbian Orthodox Church.

I don't remember but it could be that I was called to testify as an expert witness in 1952 in the Romanian case. I know that I testified but I cannot tell you if it was as an expert. I do not remember my testimony. (PX 217, copy of a transcript in the Tritza case, pages 110 through 124 is marked.) I do not recall testifying that I was appointed by the Synod and Patriarch Gabriel.

VERBATIM TESTIMONY

[8626] Q. Your Grace, do you recall having been asked when you appeared as the expert witness in the Trutza case—

Mr. Holmquist: What page?

Mr. Karacic: Page 11.

Q. Do you remember being asked a question,

"Now, are you familiar with the canon laws and the ritual discipline of the Orthodox Church?"

Do you recall that question?

A. Am I familiar with the law?

Mr. Holmquist: No.

[8627] By Mr. Karacic:

Q. Do you recall being asked that question when you appeared to testify in the Trutza case?

A. I don't. I don't remember.

Q. Do you remember making this answer: "Yes, I am"?

A. I don't know.

Q. And do you remember the question being asked of you at that time, "Will you state just briefly what the Orthodox Church is, the nature of the Orthodox Church?"

Do you remember that question, sir?

A. I could not remember now.

* * *

[8631] Q. I ask you to look at the cover of Plaintiffs' Exhibit 30, where it says "Translated by Rev. M. M. Mijatovich." Do you know if that's the same Mijatovich that came with you in 1940?

A. Yes, that was the same.

Q. Thank you.

A. But we did not accept that translation as correct.

Q. You did not accept that?

A. Yes. We did not.

Q. All right. Now, your Grace, was he a member of the Council, of the Diocesan Council in 1963, do you know?

A. Might be. I could not tell you just right [8632] now, before I look through some Minutes.

Q. Did you not discharge him on June 7, 1963, from the Council, because of his position?

A. Yes, I discharged him. Yes.

Q. Now, when you arrived in the United States I believe you testified that Father Mrvichin of Los Angeles was in charge of the Diocese or was acting in charge of the Diocese. Do you recall that, sir?

A. He was just an employe in the Diocesan office, but some other priests, Very Rev. Trbuhovich from Detroit was in charge and Very Rev. Stijacich from Chicago.

Q. Is this the same Father Mrvichin who you appointed to the official position in the Episcopal office in 1941, sir?

A. I ordained Mrvichin to be priest first, and I appointed him as a priest in Hamilton, Canada; later on in Gary, Indiana.

Q. And was he not appointed as Financial Secretary of the Diocese, sir, by you in '41?

A. I don't know until I look.

Q. All right, sir.

Mr. Crown: Showing the witness what has been marked Plaintiffs' Exhibit 111 for identification.

By Mr. Karacic:

Q. Does that refresh your recollection, your Grace?

[8633] A. Yes. He was an employ of our Diocese and I appointed him as our employe, yes.

Q. And then in 1952 did you appoint him as Vicar General of the Western—

A. In which year?

Q. In 1952 did you appoint him as your Vicar General of the entire Western Division of the Diocese?

A. I appointed him in the Western Diocese, western part of our Diocese, yes.

Q. As Vicar General?

A. Yes.

Q. After May of 1963, did you discharge him as that Vicar General?

A. Yes, I discharged him, too.

Q. And along with that discharge, your Grace, did you advise him that he could no longer attend any of the meetings of the St. Sava Mission in Jackson, California?

A. Probably that was that way. He hadn't any authority to represent anybody, represent me in our Mission in Jackson, California, yes.

Q. So then he was not allowed any further activity at the Mission there in St. Sava, Jackson, California?

A. Yes.

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ABSTRACTED TESTIMONY RESUMED

8638 As Bishop of the Diocese I must recognize the Patriarch of the Serbian Orthodox Church. I was
8639 elected by the Assembly with the agreement of the Kingdom of Yugoslavia. At the present time I don't know if the Bishop's Assembly or Religious Committee for Affairs, or Special Committee elects the Bishops.

VERBATIM TESTIMONY

[8639] By Mr. Karacic:

Q. Did you ever have occasion, your Grace, to review the Serbian Orthodox Church Constitution as amended from 1957?

Mr. Holmquist: Till when?

By Mr. Karacic:

Q. To date. Did you ever have occasion to look at that Constitution?

Mr. Holmquist: Well, now, just a minute.

[8640] I'm going to—

The Witness: I really didn't—

Mr. Holmquist: Just a minute, your Grace. Just a minute.

I don't think it's been established that this witness has had access to any of the documents in Belgrade at least since March of 1964 when he was defrocked.

Mr. Karacic: From 1957 to 1964.

Mr. Smith: There is no such document. There isn't anything like that. The one he described doesn't exist.

Mr. Holmquist: Are you referring to some document now?

Mr. Karacic: I'm referring to Exhibit 68.

Mr. Smith: No, that's not what he referred to.

Mr. Holmquist: Do you know what document 68 is, your Grace?

May I see what you're referring to, counsel?

Where is it?

Mr. Karacic: Isn't it in that book? It's already in evidence, I believe, as the Constitution of the Serbian Orthodox Church, the 1957 edition.

Mr. Holmquist: All right. The 1957 edition.

Now, what is your question?

[8641] By Mr. Karacic:

Q. Have you ever had occasion, your Grace, to see this document which is being put before you by Mr. Holmquist?

Mr. Crown: I'm also putting before him 68-B, which is the Serbian, of which that 68 is a translation.

The Witness: I am only familiar with the Constitution of 1947.

By Mr. Karacic:

Q. 19 what, sir?

A. 1947, when it was revised, and the Patriarch Gabriel with the Holy Bishop's Assembly made a revision of the Constitution in 1947, so that one I know. This one I don't know.

Q. You never saw this edition of the Constitution?

A. I saw that book, but it never was sent to me. Officially I never used it.

ABSTRACTED TESTIMONY RESUMED

8641 I am not familiar with the 1957 edition to the Constitution. I am familiar with the 1947 edition.

8643 The people have tried to amend Article 9 of the Diocesan Constitution several times and the Synod
8645 has refused the amendment. Our Church National Assembly made amendments to change Article 9. The amendments have not been approved by the Assembly to the present time.

8647 The 1947 Constitution was announced in the Glaznik with the provision that the Constitution be presented to the Patriarch Council for approval. I don't
8648 know if the 1957 edition is the same as the 1947 edi-
8649 tion. I was under an obligation as Bishop of the American-Canadian Diocese to file an annual report
8652 to the Assembly. (Offer of Proof) A Bishop's report is referred to in the Diocesan Constitution in
8655 Article 10. (The Offer of Proof is refused)

8658 I believe that God alone knows who is my successor
8659 in the event of my death. Prior to the split in my opinion the people and clergy of this Diocese would make a recommendation to the Patriarch regarding
8660 a successor-Bishop. In the present situation we must first have the establishment of justice in the court

and the mistakes of the Assembly of 1963. Then we would see what we may do for the next Bishop. I
8665 was under an obligation until May, 1963 to mention
8666 the Patriarch's name. I was president of the Serbian Orthodox Christian Unity, an organization approved by the Serbian Orthodox Church while I was in
8667 Yugoslavia. Not all religious organizations must be approved by the Assembly. I approved the By-Laws of the Clergy Association and they sent them to the
8668 Bishop's Council where they were approved. I wrote letters every year to the Assembly and did not attend the meetings from World War II until 1962. My reason for not attending is this: Since 1946 Communist papers have proclaimed me traitor to the state of Yugoslavia and they asked for my removal. I thought I had better not go there because they would treat me like a traitor and put me in jail. I did put that in my answer to the Holy Synod; in one letter to them I said I am considered over there as a traitor of the state how could I be safe if I came. Patriarch German wrote and said that I shouldn't worry but I said to myself "better not go."

8674 I sent my congratulations to Patriarch German
8675 when he was elected. I announced his election to the
8676 clergy in the diocese. (PX 218, 218A, 219 and 219A
8677 are admitted as evidence.) I was invited to the '59 Sabor and gave the Patriarch my proxy. We intended to help our church over there morally and
8678 materially as much as we could. I gave Patriarch my proxy in some cases but not for the Macedonian
8700 Church. I forwarded the bylaws of the clergy association of the diocese to the Synod for approval. (PX 220 is refused.)

[8678] Q. Your Grace, you testified earlier that you had forwarded to the Holy Synod for approval the by-laws of the Clergy Association of the Diocese here in this country. I ask you to look at Plaintiffs' Exhibit 49.

Mr. Crown: 49-A.

Mr. Karacic: 49-A.

Q. Is that what you have reference to in that letter, sir?

Is that the Clergy Association you are talking about?

A. This is reference to Clergy Association, but nothing else.

Q. Is that your signature on the bottom of 49-A, your Grace?

A. Yes.

Q. And are these the by-laws of the Clergy Association of this Diocese that you forwarded to the

[8679] Holy Synod for approval?

A. Providing if that is in the spirit of the Constitution of our church and Paragraph 12 and so on, from our side, and in the spirit of 69 of the Constitution of the Serbian Orthodox Church, we think it could be approved.

Q. Now, your Grace, in that letter you speak of Article 69 of the Constitution of the Serbian Orthodox Church.

A. Yes.

Q. What edition of the Constitution have you reference to, do you know?

A. Let me look at it again.

Which was this one?

Mr. Crown: 49.

Mr. Karacic: May I help you?

The Witness: Then Article 12 of our Constitution of our Diocese.

By Mr. Karacic:

Q. That's the Diocese Constitution.

A. And 69.

Q. But you speak of 69.

A. But 69 of the Constitution of the Serbian Orthodox Church.

[8680] Q. Yes, your Grace, and I ask you what edition of the Constitution of the Serbian Orthodox Church have you reference to in that letter?

A. Well, I could not tell you until I look at the Constitution itself.

Q. Well, if the letter is dated in '60, your Grace, isn't it a fact you have reference to the last edition of the Serbian Constitution published?

A. See, I said in here, "but if that is in the spirit of 69 of the Constitution of the Serbian Orthodox Church, then should be adopted and approved by the Holy Bishop's Synod." I said that here.

Q. Well, they approved the by-laws, did they not? Do you know, your Grace, if they approved the Clergy Association by-laws?

A. I think they approved.

Q. Your Grace, I show you what has been marked as Plaintiffs' Exhibit 68-B, and ask you to look at Article 69.24.

Mr. Holmquist: What is it?

Mr. Karacic: 69.24.

The Witness: Yes.

By Mr. Karacic:

Q. Is that the provision you had reference to,

[8681] your Grace?

A. I believe, yes.

Q. Then, your Grace, when you had reference to that paragraph, were you speaking of the 1957 edition of the Serbian Orthodox Constitution?

A. I'm speaking of the Constitution of 1931.

Q. Your Grace, I show you the Serbian Orthodox Church Constitution as passed originally in 1931, and ask you to look at Article 69 in that Constitution, which speaks of Secretaries of the Supreme Ecclesiastical Court and Clerks, and has no reference at all to any Clergy Associations, and I'll show you Plaintiffs' Exhibit 68-B again, .24.

Your Grace, I show you Plaintiffs' Exhibit 68-B, Article 69.

A. Maybe that is. Maybe that is which I mentioned.

Q. Then you had reference to 68-B and not to the '31 Constitution; is that right?

A. No. It has it somewhere.

Q. Maybe I can help you, your Grace. If you're looking for 69, as it appears in the '57 Constitution, in '31, you'll find it under—

Mr. Holmquist: Article 63.

[8682] Mr. Karacic: 63.27.

Q. 63.27 of the 1931 Constitution. Do you see that there?

A. Yes, this is the same meaning here.

Q. Right. But in your exhibit, in your letter of April 1960, your Grace, which is marked Plaintiffs' Exhibit 49, you speak of Article 69 of the Serbian Orthodox Church Constitution, and in 69 it speaks of the Clergy Association, but of the '57 edition of the Constitution.

A. Yes. Well, that's a mistake. This is correct here. It should be quoted here 63.27.

Q. Then you are now testifying, your Grace, that your letter of April 1960 is a mistake—

Mr. Holmquist: No, that isn't what he said.

By Mr. Karacic:

Q. —as to the paragraph of the Constitution?

Mr. Holmquist: That isn't what he said. You're just arguing and badgering the witness.

Mr. Karacic: I'm not arguing with this witness.

Mr. Holmquist: The letter is there. It refers to Article 69. He pointed out that that's in the 1957 Constitution. Now, what more do you want?

Mr. Karacic: I'd like the witness to say that. The witness says now it's a mistake.

[8683] Mr. Holmquist: He said that once, that apparently that's what it was, that it was from the 1957 Constitution.

Mr. Karacic: I'll accept that answer.

ABSTRACTED TESTIMONY RESUMED

8701-A I got to the 1940 Diocesan Council meeting about 9:00 or 10:00. Dushan Siliski was the legal advisor.
8706 I told Siliski that I was the new bishop. Siliski said
8707 "wait a minute let's see whether we accept you." At that time I recognized the right of people to participate in the election of bishops in the governing
8708 of the diocese. I told him I would do my duty if they
8709 accepted me and if they decided not to I would go back to Belgrade. I don't know if Firmilian stayed inside the meeting while I stepped out. Later Siliski
8710 told me I was accepted.

VERBATIM TESTIMONY

[8710] And at that time, your Grace, you state that you recognize that the laymen had a right to elect bishops?

Mr. Holmquist: Objected to, been asked and answered already. He said he recognized it.

The Witness: Rights. Rights of the people to participate in the life of the church.

Mr. Council—

Mr. Holmquist: Just a minute, there's no question pending.

By Mr. Karacic:

Q. Your Grace, had you called this meeting on that date?

A. Yes, I call that meeting.

Q. As the Bishop of the Diocese?

A. Well, I signed myself Bishop of the Ameri-
[8711] can-Canadian Diocese because was my title by appointment.

ABSTRACTED TESTIMONY RESUMED

8712 The term Serbian Episcopate refers to the bishops of the Serbian Church—one part of the church is
8713 bishops, one part clergy and another is people. Episcopate of the Serbian Church refers to the bishops of the Church. Episcopate in the plural means several bishops. I believe I proposed a creation of an episcopate abroad to create bishops independent of each other. I proposed a Metropolitanate system as the Greeks and Russians have. I opposed three
8717 independent bishops. My proposal did not include
8718 removing people and clergy from participation in the
8720 election of the bishops. I did not agree with Bishop
8721 Nicholi's proposals. I wanted to keep the integrity, that is the unity of the Serbian Orthodox Church.
8722 The Patriarchate is not the Church. I wanted everyone to be united with the Serbian Church. Bishop Nicholi wanted the church in America to be a separately organized church.

VERBATIM TESTIMONY

[8721] By Mr. Karacic:

Q. Now, your Grace, "Diaspora", can you advise us what is meant by that word?

A. "Diaspora" is a Greek term, means the peoples' is scattered in different parts of the world. This means "Diaspora."

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[8725] A. That's generally saying means whether is organized diocese or not organized diocese. With outside of the State of Yugoslavia or Serbia, which kind of state—

Q. Well, the diocese in the United States is not considered Diaspora?

A. That's looking from general meaning of it. Diaspora is everything what is outside of Yugoslavia, all Serbs outside, they are in Diaspora. Organized or not organized.

Q. You cannot—you would not consider an area that is under an organization under a dioecse organization as a Diaspora, would you, your Grace?

A. I consider it every church community or diocese outside of Yugoslavia as Diaspora.

Q. Who has jurisdiction over Diaspora territory? Patriarch, sir?

A. In different times.

Q. At present, your Grace, at present.

A. At present, by the Constitution of the Serbian Orthodox Church, was the Patriarch.

Q. Well, your Grace, did you have occasion to make certain recommendations to the Patriarch con-
[8726] cerning Diaspora territory?

A. Yes, sir.

Q. And do you know when that was?

A. I could look my files and bring my correspondence. I've got of that.

Q. Do you know what your recommendations were pertaining to the Diaspora territory, your Grace?

A. I am recommending Metropolitan system. Metropolitan system, not autocephalous churches. Not independent dioceses, but Metropolitan system as the Greek, they having here, the Russian, they having here too. I'm recommending that, because it keeps unity with the Mother Church also and keeps together the people which is in different states and countries.

Q. Well, your Grace, when you spoke of the Metropolitan system, what area were you speaking of, the United States and Canada?

A. Well—

Q. To Australia?

A. I am speaking for outside of Yugoslavia, for all territories wherever the Serbian people is living.

Q. In other words, your Grace, your recommendation was for a Metropolia of the Serbian Church outside of Yugoslavia, all the areas.

[8727] A. Maybe several metropolias, maybe two or three.

Q. I'm asking you what did you recommend? One metropolia or several?

A. I recommended two or three. One for here, one for United States of America and one for Australia and other parts. I recommended two or three.

Q. And these metropolias would be presided over by whom?

A. By a Metropolitan who would recognize the Patriarch.

Q. Would he be elected by the Holy Assembly of Bishops?

A. He would be elected by the people and by the bishops of that Metropolia of that region and recognized by the Patriarch.

Q. If you were first going to establish a Metropolia in parts of the world that didn't have bishops, how would the Metropolitan be elected by that area?

A. Well, I will tell you that our Church National Assembly in 1939 made the proposition to the Holy Bishops Assembly that this diocese be elevated to the rank of Metropolia in 1939 and to have one bishop and two or three bishops.

[8728] Q. Was that for the world?

A. For the United States and Canada at that time it means, and then maybe spread farther then.

Q. At that time, your Grace, the presiding bishop would then be a Metropolitan, is that it?

A. Yes.

Q. And who would have elected him?

A. According to my opinion he should be elected by the bishops of that Metropolia.

Q. Well, at that time, in 1939, there were no bishops here in America and Canada.

A. Was bishop, was not Metropolitan. It must be agreement between the people here and the Holy Synod.

Q. Your Grace, who would have elected the Metropolitan that you are suggesting in 1939, would it not have been the Holy Bishops Assembly, sir?

A. No.

Q. It would not?

A. They just had to recognize him which elected by the people and by the treasury and by the bishops.

Q. And that at that time then, your Grace, would certainly have been contrary to the church Constitution, would it not?

A. How many times that church Constitution was
[8729] changed? Contrary to one time, not contrary to other times.

Q. And would that not be contrary to the canons of the orthodoxy of the Serbian Orthodox Church?

A. Would not be.

Q. Would that Metropolia would then be autocephalous of the Serbian Orthodox Church or not?

A. That depends of the people over there. For instance—

Q. Over where, sir?

A. Of that region. Of that region.

Q. That region could then declare its autocephality?

A. With the Metropolia.

Q. I show you what is marked Plaintiff's Exhibit 44 in evidence and I ask you—

A. Yes, I read it.

Q. In having read Plaintiff's Exhibit 44, your Grace, and having refreshed your memory, in 1952 did you request to assist in the administration of a diaspora?

A. I just knew a question about who is governing the diaspora because Patriarch Gabriel gave it to me in 1948 with the Holy Synod then.

[8730] Q. Were you returning it, your Grace?

A. On the request of the Patriarch Vikentije I returned it to him.

Q. And with the—now, at that time, your Grace, you speak of a—the diaspora in Western Europe could be entrusted with a suffragan bishop with the see of London. There was not a Western Diocese.

A. Was not as yet formed at that time.

Q. You stated that Patriarch Gabriel entrusted to you the care of the diaspora.

A. Yes.

Q. What area in particular was that, your Grace, that he entrusted to you? It was not the United States and Canada, right?

A. No, it was area all over the world where Serbs immigrated and settled.

Q. Was it all over the world or was it South America and South Africa?

A. Was all over the world.

Q. Did you ask permission to return the area of the diaspora that was entrusted to you to the Patriarch, do you recall that, sir?

A. I believe my Diocesan Council asked that.

Q. The Council?

[8731] A. Yes.

Q. Who did the Patriarch entrust the diaspora to, to you or the Council? Do you know, your Grace?

A. See, when organization is made, and when organization is formed, then would be Diocesan Council would be some kind of bishops would be some kind of missionary and so on.

Q. I'm asking you when Patriarch Gabriel entrusted the diaspora to you, did he entrust it to you or to the Council?

A. To me, including the Diocesan Council because more involved of the material expenses.

Q. Are you suggesting, your Grace, that you and the Council gave that back to the Patriarch or was it just you, your Grace?

Mr. Holmquist: I think what he said was Council—

The Witness: When the Patriarch Vikentije asked me to give it back, I gave it back. That means when the 1951 was Patriarch German secretary of Holy Synod here visited United States he said Patriarch wants back diaspora that he will govern it and he will rule it.

By Mr. Karacic:

Q. When was that?

A. 1951.

[8732] Q. 1951?

A. Yes.

Q. When did you give back the diaspora?

A. I maybe 1952. I would look at the file.

Q. When was Patriarch Gabriel elected Patriarch, do you recall, your Grace?

A. I believe 1937, after Patriarch Arvenijvo.

Q. When did he give you the diaspora?

A. 1948, and he wrote me several letters, one letter indicating 1936 from Italy I should take care for all priests abroad which are many.

Q. Well, I'm not talking about priests now, I am talking about—

Mr. Holmquist: Did you say 1937?

The Witness: Around '46. Between '35 and '40. Serbian priests were abroad and he suggested to me to take care for them. They were in Italy in that case.

By Mr. Karacic:

Q. This was right during and after the war, is that right?

A. Yes, sir.

Q. The Patriarch himself at that time was in exile, is that right?

A. He was in exile but he was enslaved first in
[8733] Germany in 1945, was freed from German prison then he fled to Italy, decided to return to Yugoslavia.

Q. But to the best of your ability, you had included in the diaspora an area you were adding, you had the entire world outside of Yugoslavia.

A. I believe so, yes, yes.

Q. And you returned this to the Patriarch around 1952?

A. Yes, I believe so.

ABSTRACTED TESTIMONY RESUMED

8732 During and after the war Patriarch Gabriel asked
8733 me to take care of Serbian priests who were abroad. Diaspora included the entire world outside of Yugoslavia. I believe I returned this area to the Patri-
8734 arch around 1952. It is not necessary that the eleva-
8743 tion of priests to higher ranks be confirmed by the Synod. I believe there was an occasion when I asked the Synod for permission to elevate somebody in rank. When the Court passes a sentence of defrock-
8744 ment that should be sent to the Synod for confirmation. If a person makes an appeal it is appealed but by all means we should notify the Synod of defrock-
8747 ment. Without the approval of the Synod I can give the rank of Archpriest or Archimandrite to a priest
8748 in my diocese. I don't believe Article 70 applies to
8749 the American-Canadian Diocese. I gave Archiman-
8750 drite Firmilian his rank without asking the Synod. I
8757 notified the Holy Synod of my actions.

VERBATIM TESTIMONY

[8754] The Witness: I notified the Synod he is not my bishop, yes.

By Mr. Karacic:

Q. When was that, your Grace?

A. I have to look the files.

Q. Excuse me?

A. I have to look the files. I could not know when that was.

Q. Well, was that before 1963 or after 1963?

A. Maybe was in 1963.

Q. And would that have been, do you know, before May 10 of 1963 or after May 10 of 1963?

A. I don't remember.

Q. But you are certain you advised the Holy Synod of Bishops of Firmilian's discharge as your Episcopal Deputy?

A. That is automatically done when according to our Constitution Bishop is outside of Diocese, he then appoints one Bishop's Deputy to perform some duties instead for the [illegible]shop where he returns his duties he stops to be performed then I don't know. I know for certain this when I discharged him in '63,
[8755] in June, that was in '63 in June because he stopped —he said openly "I don't recognize you as my bishop" before all the people and I said, "You are not anymore my bishop — my deputy," and I so discharged him.

Q. Well, then, is that at the June 6, 1963, Diocesan Council meeting?

A. Yes, yes, yes.

ABSTRACTED TESTIMONY RESUMED

8762 I did not notify the Synod of Bishop Firmilian's discharge as my episcopal deputy. I discharged Rev. Firmilian in 1957 as secretary of the diocese and the diocesan financial secretary and so on. In the case
8767 of a defrocked priest if new evidence or data is submitted to the court the defrockment may be revoked without the confirmation of the Synod. Before May 10, 1963 we would notify them but we did not after because they stopped all correspondence with me.

8777 According to Article 57.7 of the Penal Code a defrocked priest cannot be restored but there are other
8795 provisions which existed before which permitted that. Rev. Gosinovich was defrocked but the Synod did not approve it. He made appeals. At the present time he is in Yugoslavia somewhere in the service of
8796 the government or patriarchate. If the Synod changes the defrockment the matter is returned to us for reinvestigation. We never found Rev. Gosinovich in America to examine him again so the matter
8804 is still pending. If a bishop of another Serbian Diocese took action against one of his priests I would recognize it if it were legally and canonically done.
8805 I could go over the entire case again. We had a case
8806 like that in the Belgrade Ecclesiastical Court: this
8809 case was in the nature of a change of venue not an appeal. (Plaintiff closes his offer of proof and the
8810 Court refuses it.) A priest leaving one diocese and going to the other must first submit some acceptance from the other bishop and then obtain release from
8811 his former bishop. If the old bishop refuses to re-
8812 lease him the new bishop could deny his acceptance. There are lots of canons which speak about a priest
8815 leaving a diocese. (DX 223 and 223A are admitted in evidence).

8816 The diocese according to the bylaws is autonomous.

8817 As bishop I was autonomous in many respects but not in canonical aspect. I had to mention the Patriarch in the services and to work together with the diocesan bodies meaning the council, ecclesiastical
8818 court and other diocesan orders. In all of the church national assemblies I spoke about the unity of the church with the provisions of our autonomy provided in our bylaws. The Serbian Orthodox Church has

one Constitution for all the dioceses inside Yugo-
8819 slavia. Other bylaws existed for the diocese of Budam in Hungary during the time of the 19th Century. The American diocese has its own Constitution which governs this diocese and provides autonomy. I am referring to administrative autonomy.

8820 I did not desire prior to May 9, 1963 that this diocese sever its relationship with the Patriarchate.

VERBATIM TESTIMONY

[8823] By Mr. Karacic:

Q. Your Grace, I show you what has been marked as Plaintiffs' Exhibit 85, sir.

Your Grace, did you have occasion to attend a Diocesan Executive Board Meeting on April 17, 1963, at Libertyville, Illinois, sir?

A. I believe I presided at it.

Q. You presided, sir?

Mr. Holmquist: Before you question further, could I examine the document?

Mr. Karacic: Yes. I'm not questioning on the document right now. I'm just asking preliminary questions.

[8824] Q. Your Grace, did you say you presided at the meeting of—

A. I believe I presided at the meeting and here those are all Diocesan Boards signed after.

Q. And at that meeting, your Grace, was a Resolution or statement adopted by that Board?

A. Yes.

Q. Were you present, your Grace, when discussion was being conducted with reference to the Resolution or statement?

A. Yes.

Q. Who called this meeting originally, your Grace? Was this at your direction?

A. I believe I called it.

Q. All right, sir.

Mr. Holmquist: The document states that it's a regular session on Wednesday, April 17, 1963.

By Mr. Karacic:

Q. And the document was signed by you, was it not, your Grace, as the Bishop and the first of all the signatories?

A. Yes.

Q. And then by your Episcopal Deputy, Archimandrite, at that time, Firmilian?

[8825] A. Yes.

Q. And was Archimandrite Balach at that time Secretary?

A. Yes, yes.

Q. Now, your Grace, approximately two weeks later did you attend a Clergy Association meeting, sir? Do you recall?

A. It might be I attended, yes.

Q. Your Grace, do you recall if there was a Clergy Association meeting at Lorain, Ohio, on May 9, 1963?

A. I don't know which date but I recall was a meeting.

Q. And do you recall if you attended and presided over that meeting?

A. I didn't preside at that. I attended.

ABSTRACTED TESTIMONY RESUMED

8823 I attended the meeting referred to in PX 85. I at-
8826 tended the clergy association referred to in PX 86. I recognized the resolution in the beginning but then
8829 I removed my signature. I placed my signature on

blank paper and the committee was ordered to revise the resolutions. Some of the signatures were signed in blank and some later. I removed my signature two
8830 or three days later. When I saw the resolution later
8832 I removed my signature because I disagreed with some of the provisions. I can't recall who I saw sign this document.

8836 In my opinion as bishop I stood for canonical and spiritual union with Belgrade. The word canonical includes hierarchal but our Constitution uses the
8840 word canonical. I don't recall a telegram going to the Patriarch or believe that I signed a telegram at the clergy association meeting. I don't recall PX 118.

8846 When Father Buhich returned from Belgrade he
8851 gave a report to the diocesan executive board. Father Buhich did not tell me that the Patriarch was considering reorganizing the American-Canadian
8853 Diocese. DX 84Z is a letter I wrote concerning Fa-
8855 ther Buhich's report. Father Buhich reported to the board that the assembly was considering reorganiza-
8859 tion of the diocese. PX 84AA is the Patriarch's letter to me on June 29. I received this letter in August time. It did not come in the same envelope with the
8860 letter from Metropolitan Damaskin. (Counsel agrees that the date on the letter in the exhibit is the date
8864 of minutes and not the date of the letter.) I don't know whether I received DX 117 before I received the letter dated June 29, 1962. I believe I received Metropolitan Damaskin's letter first. Then I re-
8869 ceived letters from the Synod and the Patriarch.

I don't know whether the complaints I received from the Synod in the early '50's were all of the complaints against me that were sent to the Synod. Con-
8872 stantine Fotich was ambassador of the Royal Gov-

ernment and the people who made charges against me were on the side of "Free Expression", a Communist movement in America and a subversive organization. The Fotich group gathered together with the Royal Yugoslavian Government and were behind the King of Yugoslavia. I considered the complaint
8873 against me to be political. The partisans in Yugoslavia were a communist group. The Pavelich re-
8874 ferred to in DX 119 is a fascist leader who killed
8875 Serbs. DX 123 is a political complaint against me. DX
8877 126 is a political complaint against me by people
8878 hiding behind very nice democratic words. (Counsel for Defendant asks counsel for Plaintiff whether he is skipping the letter concerning the World Council
8879 of Churches and defense counsel states that he is skipping the letter concerning the World Council of Churches and the other one about Bishop Nicholi and he speaking at a Catholic men's club. Defense counsel notes that DX 131 is a complaint from the minister of foreign affairs concerning their speaking before the Catholic club.) DX 130 is a complaint by the ministry of foreign affairs pertaining to my attendance at a Catholic club in Chicago and Bishop Nicholi delivering a sermon at St. Luke's Church of
8882 Evanston. I consider the material in DX 135 to be patriotic and national. The Serbian National Defense was formed without my intervention in 1942 when the Serbs of America heard of the tremendous slaughter of Serbs in the independent state of Croatia. Eight hundred thousand Serbs were slaughtered over there and they were killed by the Croatian fascists under Pavelvich. The Serbian National Defense was formed to defend Serbian people all over
8883 the world. I did not declare Mihailovich a saint but I

declared that those eight hundred thousand Serbs who were murdered because they were Serbs were as innocent as a saint. I consider that this is a political writing against me and I am thankful to God that I fought them and am continuing to fight them.

8884 DX 140 is a copy of a denunciation of Rev. Arsenje from the monastery of New York. I knew of
8887 a newspaper called Serbian Unity which is no longer
8888 in existence. The editor Mr. Pejovich wrote some political articles against my action, against my work and against me but before he died he sent me a letter asking for my blessing and for forgiveness. Rev. Arsenje did not write; he just collected some articles and sent them to the Synod and they sent them to me for my knowledge. Rev. Arsenje regretted this later
8890 and confessed that he was in error. I think there are some other documents which have not been presented which are complaints against me submitted by the Synod. I don't know if I have other complaints in my file.

8891 After World War II I was very active in campaigning against Communism. The canons may be interpreted as supporting a fight against Communism. The Holy Bishops Assembly does not interpret the canons as they apply to the Serbian Church. Every bishop, every priest and every layman inter-
8892 prets the canons. This is not a responsibility or jurisdiction of the Holy Assembly. The Assembly has a responsibility to interpret the canons but if some bishop or priest has the courage to interpret or write about them they can do so without any permission of the Assembly. Everyone should interpret the Holy Canons according to the Holy Fathers interpretation which is already in the books. Everything which

differs from that interpretation, even that coming from a bishop, patriarch or assembly, would be false.

8895 I recognize Article 69, subparagraph 9, referring to interpretations of canons. Our church has never issued any codex or interpretation of the canons. We had a famous interpreter, Bishop Milas, who inter-
8897 preted the canons. The Assembly should give the explanations of the canons which are based upon the old explanations of the Holy Fathers. If any difference appears in the explanations of the Assembly from that existing in the Holy Fathers explanations, then the assembly's explanation is not obligatory. It would not be accepted by the church, by priests, by people or anyone.

8898 I opposed Communism in Yugoslavia and in this
8900 country because it is the enemy of God. PX 224 is a copy of several pages of the 1945 Calendar with my
8903 article in it. The Calendar was published at the end of 1944. I believe I wrote the article some time at the
8913 end of 1944. Subsequent to 1954 I received two complaints from the Synod concerning the World Council of Churches. I did testify that I was asked by
8915 members of the Synod or the Patriarch to avoid participation in politics but participation in politics is the phraseology of the Communist party in Yugoslavia because they are not permitting the priests or the bishops or anybody to take part in any politics. Patriarch Vikentije wrote me about avoiding gatherings and I explained that I am not a member of any
8916 political party or a politician. I believe the bishops there were taught to avoid and not to attack Com-
8918 munism. These earlier complaints in the late 1940's did not come from the United States and Canada but came from the Yugoslavian government and Tito. In 1945 Tito himself. I confined myself to the mission
8919 of the Serbian Orthodox Church. The Metropolitan

delegation were guests in my house. The diocese didn't have enough funds to pay the expenses so I created a special fund. I don't recall whether the diocesan council decided to pay their expenses. I
8927 would have to look at the minutes. (DX 225 is ad-
8928 mitted in evidence). During the private meetings in 1962 between myself and Metropolitan Damaskin and Bishop Nikanor, Bishop Nikanor took the minutes. I
8932 wanted to sign the minutes together and they avoided that. I told Metropolitan Damaskin that the idea of creating a metropolia for the United States and Canada was the idea of our church national assembly, not my idea. When Metropolitan Damaskin was here in 1939 they decided to ask that this diocese be elevated to the rank of metropolia. I told him that I was not wishing to be a metropolitan here. Metro-
8934 politan Damaskin said that only the Patriarch may
8935 have vicar bishops. He suggested that some vicar bishops might be elected and sent to the United States to assist me. I said I could not recognize bish-
8936 ops which were not my own because they have another man supervising them. I told Damaskin that vicar bishops would have to come from this diocese because the people here would not receive somebody
8945 from Yugoslavia. Damaskin said "I have some letters against you" and I said to him "I will gladly answer you everything if you send it to me officially through the office of the Holy Synod." Bishop Nikanor agreed to that and put it down in the notes that these complaints would be sent to me through the office of the Synod. Damaskin did not advise me
8946 what these complaints were about. He didn't say whether they were very, very important. The dele-
8947 gation visited approximately one-third of the sev-
8948 enty-four congregations in the United States and

Canada. I don't know if any donations were given to them personally. Certain contributions were given
8949 to me for the Patriarch while they were with me. Some people were very doubtful about the arrival of
8950 the delegation. Some people were glad. Damaskin was a bishop here in '38 and '39 and he had some personal friends who were happy to see him. I do not recall seeing anyone crying when they met the delegation. I was present at the beginning of a clergy association meeting at South Bend in November and the delegation was there to the end. I was at the
8951 meeting an hour and a half and left with Reverend
8952 Brkich. There were twenty or thirty priests there.
8953 A man named Djuich attacked me and said that I should not be bishop of the diocese. I did not respond
8954 to Djuich. I walked out of the meeting. The Damas-
8955 kin delegation told me that they did not come for any investigation.

After the delegation departed I heard that they had been collecting materials on me. I told the delegation to send me the charges and that if I have to I will bring my accusers before the civil courts.

VERBATIM TESTIMONY

[8963] Q. Sir, did not Metropolitan Damaskin in effect advise you that they would give you two or three de facto Vicar Bishops to help you in this area?

Mr. Holmquist: Now, just a minute, I am going to object to that. The document speaks for itself, and Counsel is paraphrasing it. All it says here is that the matter was discussed. And I object to the form of that question. In the first place, Metropolitan Damaskin was not in position to guarantee anything. This was discussed that he would, as the head of the delegation—and all this report shows, and you can

look at Damaskin's report, all it shows is that these matters were discussed.

Mr. Karacic: Q. Well, did he propose that?

Mr. Holmquist: I object to that form of the ques-
[8964] tion. I think what it says, and the documents speak for themselves, that these matters were discussed. And I am sure it is Mr. Karacic's position that the only person that could make any final decision in this regard was the Holy Bishops Assembly.

Mr. Karacic: Oh, yes.

The Court: Well, that is not the question. This, as I understand it, is the report made by the witness.

Mr. Holmquist: This is the report made by the witness.

The Court: Is that not so?

Mr. Holmquist: Yes. He is relating in his report what was discussed.

The Court: I understand that.

Mr. Holmquist: Yes.

The Court: I don't think we are limited in questions to the report itself. It is a basis for the report.

Mr. Holmquist: Well, you were going into this report—

The Court: It is not necessarily conclusive, or all embracing I shouldn't think.

Mr. Holmquist: Well, back to the question that
[8965] was asked — Mr. Staton, will you go back to the question that was asked?

(Pending question read.)

Mr. Holmquist: That's what I am objecting to: didn't he advise you they would give you . . .

Mr. Karacic: Well, I can change that.

Mr. Holmquist: All that was done, it was discussed. There were various discussions. Damaskin never said he would do this; I am sure he didn't.

There is nothing in that report that said he would do it. He didn't have the power to do it.

The Court: Mr. Holmquist, this is cross examination. I overrule you. The Bishop may answer.

Now, he probably needs the question again. Will you read it, Mr. Staton?

(Pending question read.)

The Witness: A. No, not in that form.

Mr. Karacic: Q. In what form, sir?

A. But that those should be Vicars of his Holiness the Patriarch, and the Patriarch may assign them for the duty here in the United States of America and that I may then make proposal for which I wanted.

I said I could not accept such a proposal.

Q. Your Grace, was that the only way a Vicar
[8966] Bishop is provided for in the Serbian Church, that he must be elected to the Patriarch?

Mr. Holmquist: There is no question about that, but the Bishop was proposing something else. That's the reason he rejected it, because under that form of Constitution, a Vicar Bishop is directly responsible to the Patriarch and that's what the Bishop—

The Court: We have been over this before.

Mr. Holmquist: Yes, that's why he objected to it; he didn't want somebody over here that was responsible to the Patriarch in Belgrade.

Mr. Karacic: Q. Now, your Grace, with reference to the Diaspora of the entire American continent, did you advise the delegation that unless they actually became part of the Diocese, you would not accept the administration of that, of the Diaspora, from the Patriarch even if he gave it to you?

Mr. Holmquist: Didn't we go over this yesterday or the day before?

Mr. Karacic: We went over the fact that he gave it up because he couldn't administer it all.

The Witness: A. When we discussed that problem, I said if I would receive from his Holiness, the Patriarch, the right to administer those parts of the
[8967] world where he could not do it.

Q. You would, did you say?

A. Yes, I said that in here, in my report; I could not. I could not, but I wanted that that Holy Bishops Assembly decide it, that those provinces be added to our Diocese, as part of our Diocese.

Q. All right. Then your answer is, your Grace, that you would not accept the administration of that area unless it was part of the Diocese?

A. Unless they are part of this diocese.

ABSTRACTED TESTIMONY RESUMED

8967 When Djuich began to speak in a loud voice I went out. It could be that he said that I prepared separa-
8968 tion of this diocese from the Patriarchate.

8970 I received PX 3E around May 21, 22 or 23. I was not suspended as bishop because I was never the
8971 Midwestern Diocesan Bishop. I made no arrangements to turn over the administration to Archimandrite Firmilian because the order referred to Bishop
8973 Dionisije of Midwestern American Diocese. The order addressed to me as Bishop of the Midwestern American Diocese is against the Holy Canons. I
8975 wrote to the Synod. (Defense counsel notes that the
8976 letter is in evidence). I wrote the letter a week or ten days after I received the letter from the Synod.
8977 I don't know if that was before or after I issued a press release. I received DX 84C around May 25. This is the first time I learned about the reorganiza-
8983 tion of the diocese. The canons the Synod violated

are the 17th of the Fourth Ecumenical Council, the 17th of the Apostolic Canons and besides the by-laws of the Serbian Orthodox Church, the 6th canon of the Second Ecumenical Council. I might find some
8984 others. The 74th Apostolic and the 9th and 29th of the
8995 Fourth and the 6th of the First were also violated. The elevation of a diocese to a metropolia is not a reorganization of the diocese. The addition of terri-
8997 tories to a diocese could or could not be a reorganization of the diocese. The addition of South America and South Africa to the territory of the American-Canadian Diocese could not be done without the consent of the bishop of this diocese and the agreement
8998 ment of the Patriarchal Council. The 1962 abolish-
8999 ment by the Assembly of the Patriarchal Council was illegal.

DX 218 is a report I prepared when the Damaskin
9001 delegation was here in 1962. At the time I prepared this report the Assembly did not have the right to
9004 abolish or divide dioceses. According to Article 16 of the Serbian Orthodox Constitution the Holy Bishop Assembly did not have the right to elevate this diocese to the rank of metropolitan in 1962 without the agreement of the Patriarchal Council. I heard in 1962 that the council had been abolished but I never recognized
9006 that action as legal. In my report I mentioned some dioceses inside Yugoslavia which the Assembly transferred to the Macedonian church and I considered
9007 that illegal. I was not asking the Assembly to do any
9009 illegal act. In my circular dated May 25 I said that I would not surrender duties as American-Canadian bishop and I did not recognize that I was suspended as American-Canadian bishop.

9014 At the June 6, 1963 diocesan plenum meeting Bishop Firmilian who was then Archimandrite Firmilian asked me to transfer to him the duty of the Midwestern American Diocese. I said I'm not bishop of that diocese and later on members of our diocesan plenum decided that the administration of our diocese could not be changed until the church national assembly was held. For that reason the Assembly was advanced
9015 from October to August. I agreed with the decision of the council and they sent a telegram to Belgrade. I received a letter about June 8 about a delegation coming to ordain Bishop Lastavica and then on June 13 I received a letter advising me that a delegation would come for an investigation. Both letters are from the Holy Synod.

VERBATIM TESTIMONY

[9016] By Mr. Karacic:

Q. Now, your Grace, after you received the noti-
[9017] fication that the investigating committee was coming and prior to its actual arrival in the United States, did you not issue statements and make statements against the committee?

Mr. Holmquist: Objected to, I object to the form of the question.

The Court: Objection overruled.

The Witness: I don't know, I have to look it over.

By Mr. Karacic:

Q. Your Grace, I show you what is marked as Plaintiff's Exhibit 78; was a circular issued by you I believe in Vidovdan on October 1963 from the Monastery in Libertyville. Do you recall that circular, your Grace?

A. Let me read it to the end to see.

Yes, I recall that.

Q. And that was issued on Vidovdan 1963 around the end of June of 1963, was it not, your Grace?

A. Yes, may be, yes. Around the June.

Q. Your Grace, I refer your attention to the fourth paragraph where you state that the commission is not a guest of the diocese and that the delegation will not be a guest at St. Sava Monastery in Libertyville nor in Shadeland, Pennsylvania.

[9018] A. I found in here, I found that this delegation is not a guest of our diocese.

Q. Yes. And you were not—you said they were not to be a guest at the Monastery either in Libertyville nor in Shadeland, is that right?

A. Yes.

ABSTRACTED TESTIMONY RESUMED

9023 A non-bishop administrator cannot give Bishop dispensation. Some questions in administering a diocese fall in the dispensation rights of the bishop.

VERBATIM TESTIMONY

[9024] By Mr. Karacic:

Q. Now, your Grace, prior to this Holy Synod Investigating Commission coming to the United States, did you take any action or did you take a position to ask the people in the United States and Canada not to recognize the decisions of the Holy Bishops
[9025] Assembly because they were political in nature and to rise with you against those decisions?

A. Beside of my press release which you had of it of the 25th of May, I didn't write anybody anything else to recognize, not recognize and this and that except that I wrote that I am not recognizing those administrators.

Q. All right. Your Grace, I show you now what is marked as Plaintiff's Exhibit Number 79 which is a circular issued by you also on Vidovdan, 1963, issued from the Monastery at St. Sava, Libertyville, Illinois—

A. Yes.

Q. —and I ask you, sir, to look on page 3, that part after the first sentence under paragraph 7 which begins at the end of this circular, "I appeal to all—" the next paragraph, "I call all Serbs in the world—" and the following paragraph, "I accept under protection of this diocese—" and I ask you to please read those three paragraphs which are in capital letters.

Have you read them?

A. Yes.

Q. Having read those three paragraphs, your Grace, I ask you if you have, having refreshed your
[9026] memory, I ask you if you did not issue a circular prior to the Holy Synod's Investigation Commission coming here calling upon all Serbs to join with you against the decisions and calling all churches to join you who do not wish to recognize the decisions and calling on all people who wish to stand with you and fight against the Patriarch German and his unlawful decisions of the Holy Bishops Assembly.

Mr. Holmquist: He already said he issued this on this date.

Mr. Karacic: Not this one. He said he did other than his press release, he did not issue anything else.

Mr. Holmquist: He said anything after that date—didn't you?

Mr. Karacic: Yes.

Mr. Holmquist: This was issued the same date as the other one.

Mr. Karacic: No it's not. The end of June and the other one is issued in May.

Mr. Smith: 78 was issued the same day.

The Court: What is the date of this?

Mr. Karacic: Vidovdan he testified was the end of June, end of every June. June 28.

Mr. Holmquist: That's the date he issued the
[9027] press release.

Mr. Karacic: The press release was dated May 25, 1963.

The Court: Well, if there is no dispute about this document—

Mr. Holmquist: There isn't any—

The Court: Pardon me, please. No disputes, I think It is clear what it means and it will speak for itself. And about its origin.

By Mr. Karacic:

Q. Now, your Grace, when a delegation from the Holy Synod, Holy Bishops Assembly, visits a bishop at his monastery, is it not customary for that delegation to remain at the Monastery?

Mr. Holmquist: Objection.

The Court: He may answer. If there is a custom.

The Witness: You want me to answer?

Mr. Holmquist: First establish whether there is a custom.

The Court: Is there a custom?

The Witness: That delegation sent to me a letter from Pittsburgh addressing me as Midwestern American Bishop. I answered to them as I am not such a person.

The Court: Pardon me, I am interrupting you, but that is not the question. The question is, and I added
[9028] to the question, is there a custom to have a delegation stay at the monastery, or cannot you answer that?

A. In peace time, yes, is the custom, when there is a brotherly feeling.

The Court: That is, ordinarily?

The Witness: Ordinarily, yes.

The Court: All right, next question.

By Mr. Karacic:

Q. Now, your Grace, you did not allow this investigating commission to stay at the monastery in Libertyville, did you?

Mr. Holmquist: I'm going to object to that. There isn't any evidence that they requested to.

The Court: He may answer. I think we all know, but let him answer. Did you or did you not?

The Witness: I believe that I wrote a letter to the delegation that I could not receive them in the Monastery because our people is not willing to have them in the Monastery.

The Court: They didn't stay there, did they?

The Witness: I believe I wrote a letter to the delegation which was in Pittsburgh during that time then I accepted them in the Monastery when they arrived,
[9029] greeted them appropriately and said to them let's go for dinner in some restaurant where we may talk about—

The Court: Next question.

ABSTRACTED TESTIMONY RESUMED

9028 I believe I wrote a letter to the delegation that I could not receive them in the monastery because our people were not willing to have them in the monas-
9031 tery. I cannot verify my signature on PX 123. I remember issuing the priest at Shadeland oral instructions that the investigation committee were not guests of the diocese; they should be guests of the accusers. The 1962 delegation remained at the monastery.

9034 I refused to sign the minutes at the Rustic Manor because I was not bishop of the Midwest Diocese and they addressed me as bishop of the Midwest Diocese.
9035 I've never seen PX 82A before. (Defense counsel notes that the minutes refer to the bishop as bishop
9037 of the Midwestern American Diocese). (PX 84BB is received in evidence). I don't know that Bishop Chrysostom tried to see me in Cleveland. I never re-
9038 ceived PX 9 from the Synod. I do not believe that I violated my bishop's oath.

9041 I was not accused for not coming to the Holy Bish-
9042 ops' Assembly meeting. They understood my reasons.
9043 Since I was a traitor in the present state of Yugo-
9047 slavia I would be jailed over there and sentenced. (PX 227 and 227A are admitted).

VERBATIM TESTIMONY

[9086] By Mr. Karacic:

Q. Now, your Grace, do you recall having been asked to testify in the Romanian Orthodox Missionary Church cases versus Trutza in the Federal Court in Ohio in 1952?

A. I remember you mentioned that in here.

Q. Do you remember being there as a witness?

A. I was over there several times in several groups of the Romanians and I don't know whether I was in court or outside of the court or which kind of thing it was.

Q. Your Grace, do you remember appearing and actually testifying in that case as a witness?

[9087] A. I don't know.

Q. Your Grace, is it not a fact that this particular question was put to you as a witness in that case and you—

Mr. Holmquist: Where are you reading from?

Mr. Karacic: Page 115.

By Mr. Karacic:

Q. And you say—

Mr. Holmquist: I object, the Bishop doesn't recall if he testified at this point.

The Court: Well, I will allow the question. He can reply in his own way.

By Mr. Karacic:

Q. And you say the canon laws for your church are the same as the canon law for the Romanian Church and you gave this answer, your Grace:

"A. The same."

A. I don't believe I said "The Same."

Q. And was this question asked of you, your Grace, on page 115:

"Under those canon laws can people—"

The Court: Just a moment. Your Grace, you are entitled to understand fully that you are not being asked direct questions now about your opinion or anything of that kind, you are being asked whether
[9088] or not you recall that you were asked these questions and gave those answers at the time of the hearing in question at that prior court.

The Witness: I don't recall.

By Mr. Karacic:

Q. Was this question put to you, your Grace, as follows:

> Q. Under those canon laws can people, laymen or anyone else, elect a party to become a bishop?"

And did you give this answer:

"No, no and no."

A. I don't know because my opinion all the time was that the people should participate and—

Mr. Holmquist: You answered the question.

The Court: Your answer is to be only if you recall that question and that answer.

The Witness: I don't recall it.

By Mr. Karacic:

Q. And do you recall and was this question put to your Grace:

> "Now Bishop, as an expert on the canon law —"

Mr. Holmquist: What page now?

Mr. Karacic: 117.

By Mr. Karacic:

[9089] "Q. Now, Bishop, as an expert on the canon law of the Serbian Orthodox Church and as an expert on the canon law, can you state whether the canon law of your church is the same as the canon law of the Romanian Orthodox Church?"

And did you give this answer, your Grace:

"A. I think, with your permission, I don't know. This is the United States. We are citizens here and the United States is recognizing each church, its own right to rule, and having their own rules inside for their own church."

"Q. Yes, we understand that."

A. That means for your church, that means for my church, that means for Jewish church or any other."

"Q. Now, will you answer the question as an expert, as to whether or not you can state whether the canon law—whether you are familiar—"

And the Court interrupted and said:

"I think he has answered."

And then you answered:

"I could say that the the canon law, holy canon law is the same holy canon for every other church, either Russian or Romanian or Serbian or Greek, in Ameri-
[9090] ca, each recognizing the holy canons, with some exceptions. Even the Roman Catholics are recognizing holy canons which we have with some additions of their own. These holy canons are recognized by all churches."

And do you remember this question put to you, your Grace:—

A. I could not remember.

Q. Do you remember this question, your Grace:

"As an expert can you state as to how a bishop or an individual is elevated as a bishop in a Romanian Orthodox Church?"

And did you give this answer:

"The same as in the Serbian."

Q. And was this question put to you:

"How is that?"

And you answered:

"The Bishop House is electing a Patriarch, the Holy Synod is consecrating him."

And was this question put to you:

"Can anyone else in the Romanian Church other than the Patriarch in the Holy Synod elect and consecrate a bishop for the Romanian Orthodox Church?"

[9091] And did you give this answer:

"No. In that church will be one, a united and one Romanian Church."

And was this question put to you then—did you give that answer?

A. I could not remember.

Q. And was this question put to you then:

"Would you repeat that last part?

And did you give this answer, your Grace:

"For one church has a Serbian and has a Romanian, is one united, not divided, not separate, two or three. No one can elect, nobody can consecrate a bishop for that church, for that people except the Holy Synod Bishop House and the Patriarch who is the head of this church."

Did you give that answer, your Grace?

A. I don't know.

Q. Do you recall the Court having interrupted and saying at that time:

"The Court: Let me get that statement. If the particular church isn't separated, then you say a bishop can only be elected?"

And did you give this answer:

"The Witness: Yes."

[9092] A. Would not remember.

Q. And did the Court then give this question:

"If it is separated, different rules apply, is that correct?"

And did you give this answer:

"If for instance in the Russian Church, for instance in the Russian Church in America, any American Russian Church governed by metropolitan delegate, he has recognition as a bishop from the Patriarch in Moscow, and this is a separate church, it is under his jurisdiction, his own bishops, and he might elect a bishop for America without asking the Patriarch in Moscow.' '

A. I don't remember that.

Q. And do you remember this question then being asked by the Court:

"Why is that?"

And do you recall giving this answer:

"Because when a nation is bigger, when they like to have their own churches, they form, according to holy canon, a separate church body."

Do you remember giving that answer?

A. I could not remember that, either.

ABSTRACTED TESTIMONY RESUMED

9086 I remember being with several groups of Romanians
9088 and I don't remember whether I was inside court or
9102 outside court. I don't recall questions which were asked of me.

Redirect Examination of Bishop Dionisije.

I recall Plaintiff's counsel asking me whether I was president of the Serbian Orthodox Church's Christian Unity organization and I testified that that organization was approved by the Holy Synod. This
9103 organization had the purpose of preserving the faith and opposing some heresies and Communism. It was organized in 1919 shortly after the Bolshevic Revolu-
9105 tion. I was president of the organization from 1919 to 1930.

9106 During 1941 to 1944 I don't believe there were any meetings of the Assembly because of the German occupation. After World War II I could not go to Yugoslavia because I had been proclaimed a traitor by Tito. I read this statement by Tito in an official paper of Tito's Communist organization. DX 86A, 87 and 88
9107 are the newspapers I'm referring to. DX 86 is the
9108 official newspaper of the Communist Party of Yugo-
9109 slavia. I am mentioned by name in the article which
9116 is DX 86, the English translation. (DX 86 through 88 are rejected). I received the information that I
9117 had been declared a traitor by Marshal Tito from the newspapers printed in Belgrade and spread all over

the world. These newspapers reflect the official think-
9118 ing of the government of Yugoslavia. I also had many conversations with people who visited Yugoslavia and returned back to the United States. They
9119 told me "You should not go over there; otherwise, your life is in danger." I wrote articles in this country attacking Tito from the time he took over in Yugoslavia. I had correspondence with the State Department officials of the American government is regard
9120 to that. I picketed the White House when Tito visited the United States. My actions were in the press at that time. I made many speeches in my opposition to the Tito government. I appeared in San Francisco
9121 to protest against the government of Tito being admitted to the United Nations. DX 67 is the 1954 let-
9122 ter from the Synod asking me to stop mixing into politics. DX 97 is my press release of August 6, 1954 concerning the persecution of the Serbian Church in Yugoslavia by Tito. DX 94 is the pamphlet entitled "Persecution of the Serbian Church in Yugoslavia" bearing the date August 14, 1954. This pamphlet was written together with Bishop Nicholai.
9123 Exhibit No. 94 was circulated generally throughout the country and we presented it to the World Council of Churches Conference in Evanston in 1954. This
9126 was within two months of my getting DX 67. (DX
9127 237 and 237A are admitted in evidence). DX 238 and 238A are my letter dated January 26, 1963 to
9128 the Patriarch. I sent the letter to the Patriarch on
9130 or about the date it bears. (DX 238 and 238A are admitted in evidence). (Witness excused.)

9133 NICK STEPANOVICH testified as follows:

Direct Examination.

My name is Nick Stepanovich. I live in East Chi-
9140 cago, Indiana, and am an attorney at law. I studied at the University of Illinois in Champaign both as an undergraduate and as a law student. I am licensed to practice in Illinois and in Indiana. I practiced law
9144 from 1930 to the present with the exception of five years during which I was in the army. I was assigned to the military intelligence, specifically the area of Yugoslavia. I have been, and presently am, legal coun-
9147 sel for the Serbian Eastern Orthodox Church of the United States and Canada. Since World War II, I
9148 have returned to visit Yugoslavia on a number of
9149 occasions. I went at the behest of the State Department of the United National on a mission to bring out as many of the 18,000 Hungarian refugees as possible. I saw Patriarch German on a number of the visits and he made a visit here in 1950 at which time he stayed at my home as a guest.

9152 (Offer of proof.) My first conversation with Patriarch German was in 1955 in Zhica. Our discussions were very limited. It was quite obvious that the church was in desperate straits. At Zhica the main
9153 administration building was part of the monastery built in the 12th Century and this had been partially destroyed by German artillery. There was no roof on the building and rain was coming in and it was unusable to a large degree. Patriarch German told me he had been ordered by the government to restore the building and if it were not restored to a usable condition within one year, it would be torn down. Of course, this is one of the most sacred monuments in the Serbian Church and there was no way they could

get the funds to renovate the building. This was an example of how these monuments were being destroyed because they could not be rehabilitated. The church had no funds available; the people were very very poor.

9154 He asked me if I could do anything about getting some funds for the restoration of the monuments, and in particular, this building. In 1958 when I visited there, there had been some improvement. However,
9155 I was cautioned by the Patriarch himself to speak in low tones during my visit and to be extremely careful and cautious because there were government people stationed right in the Patriarchate. In the province of Croatia there were 220 churches before the war
9156 and out of this number only 20 were in existence and habitable at that time. The Patriarch again made a desperate plea for help and assistance from the United States.

9157 In 1960 I again went to Yugoslavia to determine the status of the Serbian Orthodox Church and Roman Catholic Church in that country. When we arrived
9158 we discussed with the Patriarch the status of the church and attempted to ascertain why so many refugees were fleeing Yugoslavia and escaping to the free West. I pointed out to him that a great many of the refugees had escaped because of religious persecution in the respected areas and communities. The purpose of the visit was to discuss the extent of freedom of movement and the authority of the church in
9159 1960. He pointed out to me that the church was still subject to the religious commission although there had been a bit of loosening up and delegations were being permitted to go to the Soviet Union and other Eastern countries. (End of offer of proof.)

9160 During my visits to Belgrade I had occasion to make personal inspection of the conditions of the churches in Yugoslavia. I made it a point on my first trip to start at the Easternmost coast of Yugoslavia at Rijka. I rented a car and went through the province of Croatia all the way down to Belgrade. I stopped in a number of villages and spoke to the peo-
9161 ple. I saw many churches through that particular area that had been burned to the ground and destroyed. After leaving Belgrade, I went to Montenegro and inspected a number of destroyed churches. I then came back along the Adriatic Coast. In my '58 trip I made an inspection of other areas of Yugoslavia, and in 1960 the trip was limited to three days, and so, I was not able to visit any churches except the ones we went to for religious services.

9167 I was appointed sometime in 1962 to be a member of a delegation designated to go to Belgrade. I was involved with the organization and the arrangement
9168 of that delegation. It is my belief, in view of the status of the church in Yugoslavia and knowing the attitude of the people who belong to this diocese, that we should prepare ourselves for the eventuality of Bishop Dionisije's death. I felt very strongly that if
9169 there were to be any bishops designated from Yugoslavia there would be considerable trouble and difficulty. I suggested, therefore, in 1962 that a delegation of American members of the Diocese go to Yugoslavia to discuss with the Patriarchate our position in the event anything happens to Bishop Dionisije. The delegation was eventually comprised of Steven Maravich, a business man from St. Louis, myself and
9170 Father Brkich.

9172 There was considerable discussion as to whether or not Bishop Dionisije should go to Yugoslavia at

this time. There were numerous expressions of fear for his safety and one objection which was paramount and discussed at length was the fact that the Bishop's presence in Yugoslavia might compromise his position with the faithful in the United States who are bitterly anti-communist. For example, in previous Sabors prior to 1962, it was customary that the Sabor enmass with the Patriarch would appear at the government palace and have their pictures taken with Marshal Tito. It would of course be fatal for the Bishop to have a picture of that nature circulated or further still a picture to be taken at some function with a red star of the Yugoslavia flag. It was
9173 unanimously agreed that the Bishop should not go with the delegation and the Patriarchate be apprised of that fact. This was discussed and acted upon, I believe, at the Plenum meeting in February of 1962. I had some correspondence with the patriarch after I was informed or had knowledge that the delegation would not be accepted without Bishop Dionisije as its head. Defendant's Exhibit 239 is a copy of a let-
9174 ter sent by me to the Patriarch. I did not receive a reply until July or August of 1963, a little over a
9175 year later. In this letter, in more than one paragraph, I talked of solidarity within the diocese and the mother church. This is the position which I took at that time. My position remained unchanged up
9176 until May 10, 1963. Also on April 17, 1963, at a diocesan Executive Board Meeting held at St. Sava Monastery, I signed a statement concerning the coninued unity and solidarity between this diocese and the Mother Church in Belgrade. Plaintiff's Exhibit 85 is a copy of that statement.

The document was signed by all the members of the board who were present, although it was late in the evening and some had departed after authorizing the affixation of their signatures. At this time there were numerous rumors and pamphlets being issued critical of Bishop Dionisije and there were some newspaper articles. It was proposed that we evidence our solidarity and call attention to the Holy Sabor that we expected them to take into consideration, as they had done in the past, our wishes and needs, stipulated by the specific conditions in which we live, and to accommodate us in this respect so that our unity and indivisibility might in this manner always be mutually manifested to the benefit of our entire Serbian Orthodox Church and the Serbian people. We called to their attention that we in the United States live under a specific set of conditions and would maintain unity as long as there was a hands off policy as far as our administration was concerned. We had absolutely no forewarning of the action that was taken on May 10, 1963. About ten to twelve days after the 10th, I received a mimeograph excerpt of the minutes. Between the time I received this excerpt and the time of the Plenum meeting I had considerable contact with His Grace Bishop Firmilian.

I have been legal advisor to the American-Canadian Diocese since around 1948, but have never received any remuneration for my services or any expenses in traveling throughout the country or to Yugoslavia.

The Plenum meeting on June 6th was opened by Bishop Dionisije who immediately turned it over to Mr. Maroavich and Dr. Safers who are the two vice-presidents of the diocese. At the time the meeting was convened Bishop Firmilian was not there and

came in about a half an hour later. After sitting through the preliminaries Bishop Firmilian asked for the floor and said, "Gentlemen, I want you to obey the directive that you have received from our higher authority and turn over to me the administration of this diocese, the Midwestern Diocese, and make it easier to carry out my function. Today, in these critical times when our church was suffering more than it did under the Turks for five hundred years, today, when the church was being oppressed by communists and being subjected to this pressure, we should be cooperative and not oppose the order of this Holy Synod, our higher church authority." Bishop Dionisije replied, "I am not the Bishop of the Midwestern Diocese." He said further that he accepted the Sabor and would do whatever they directed him to do. He said that he did not feel that the Plenum had any authority to decide in this matter and that all they could do was pass it over to the legislative body of the diocese. I then expressed my view to the Plenum that the Sabor was the only competent body to take any particular action. I said that there were two specific issues, one was the abolition of the diocese which was absolutely counter to our constitution, and that the other concerned Bishop Dionisije and was a separate question. I said that if the Bishop were tried and given a fair hearing, I would be the first to condemn him. The Sabor was scheduled for October 18, 19 and 20, but it was unanimously agreed by all participants including Bishop Firmilian that the Plenum was not competent to make decisions in this matter and that the Sabor should be advanced, and on a unanimous resolution the first week in August was set as the date.

We also voted to send a telegram to the Holy Synod asking that they send out an investigating commission to determine the charges and to hold a hearing as far as Dionisije was concerned with the hopes of determining this matter before the Sabor came about.

During the course of this meeting Bishop Firmilian was neither calm nor collected. Throughout the course of the meeting he kept insisting that they should turn to the authority of the diocese over to him as he had an order to carry out. I sat alongside of him at all times and I asked him to please be patient and that everything would be worked out. The Archimandrite left toward the end of the meeting. I recall that he did remain long enough to vote on advancing the Sabor to August. However, he departed prior to the vote inviting the delegation from Belgrade. He and Bishop Dionisije left approximately the same time and there was an exchange of words as they left. Bishop Firmilian stated Bishop Dionisije was not following orders and said that he did not recognize him as his Bishop. Bishop Dionisije replied, "Well, if you don't recognize me then you are no longer the vicar of the diocese and no longer a member of the Ecclesiastical Court."

I own a tape recorder and had taped prior meetings and subsequent meetings. The tape recorder was between Bishop Firmilian and myself. It was customary to tape the entire proceedings of all Sabors, Executive Board Meetings and Plenum meetings as this would facilitate the writing of minutes and at the same time preserve the record. The entire proceeding is recorded on these tapes. After the meeting on June 6th I received a response, concerning the Investigating Commission requested, through a letter

from Bishop Hrzistom. He stated that he would like to talk to me on the fourth of July. I received this letter about a day or so before the fourth. I talked to Bishop Hrzistom on the phone on the fourth of July and made arrangements to meet him later, with Dr. Sefers and one or more members of the diocesan executive board, the evening of the fourth. Because of the large crowd at Father Popovich's house I suggested that we rent a dining room at the Sherman Hotel and they agreed to this idea. Present at this meeting were Archimandrite Firmilian, Mr. Maravich, Dr. Sefers, Father Brkich, Mr. Drovak, an attorney from Milwaukee, Bishop Lastavica, Bishop Visarion and Bishop Hrzistom. I believe that there were ten of us present.

After dinner I told them that the Plenum, which had been delegated power to call a Sabor, had advanced the Sabor to August and I asked Bishop Visarion whether he thought this Sabor was legal. His answer was, "It was." I then turned to Bishop Firmilian and said, "Why if this meeting is legal are you boycotting this Sabor?" Father Firmilian said to me, "I am not boycotting it; my parish is sending delegates. We are at sea as to whether to send two or three delegates, but I am not boycotting this meeting." Then I said, "Gentlemen, I have two questions that I would like to ask and if your answer is a certain way I will pull out of this controversy immediately. First of all, do you, Bishop Visarion, have anything in your files, any requests from a Sabor, from Bishop Dionisije, from a Plenum, any request, written or oral, asking that this diocese be divided into three dioceses?" His answer was, "No, we have no such requests." And I said my second request

is, "Do you have anything in your files written or oral, any request from the Sabor, from the Plenum, from Bishop Dionisije, or from any other source asking that Bishop Lastavica be appointed as Bishop of this diocese?" He replied, "We do not". I asked
9213 him why they had not notified us formally of that action. He said that evidently the notice had gone out to the editorial staff of the Glaznik. I then asked him why a public announcement had been made in Belgrade when his delegation had left for the United States concerning all the statements made about Bishop Dionisije. I pointed out a Catholic Church or any other church dealing with a controversy maintains secrecy and conducts their investigations in camera. He had no answer for that.

9219 Additional conversations were had concerning why Archimandrite Firmilian had not been appointed a Bishop instead of Bishop Lastavica and they replied that they were asking for a special Sabor to be called and that they were going to elevate additional Bishops. Dr. Safers read off a list of about 30 parishes which had raised objection to the order and I concluded by telling Bishop Vasarion and those assembled that I did not accept the order since it violated our constitution. Bishop Firmilian and Bishop Hrzistom said that they were going to try and meet with Bishop Dionisije on the following morning July
9220 5 and they were a bit apprehensive about going to the Monastery. I assured them that they would be received as fit their station, as Bishops of the Serbian Orthodox Church, and that I personally, along with Dr. Sefers and Mr. Maravich, would meet the delegation at the Monastery. On the next day, we
9221 all met at the monastery and then went to the Rustic

Manor for lunch, so that privacy could be had during the meeting. The three Bishops went into a small dining room alone and the rest of us ate in the larger dining room. After half an hour, I was called into their meeting and Bishop Vasarion stated, "We have reached an impasse. We have written in the minutes of this meeting, Bishop Dionisije refuses to answer questions unless they are submitted to him in writing and he is asking us for the charges to be submitted to him." I then mentioned to Bishop Vasarion that the minutes were not signed. I asked
9223 Bishop Vasarion if he was the author of the Penal Code and he said that he was. I then asked if the Penal Code did not prescribe that the charges should
9224 be furnished to an accused. Bishop Vasarion then stated that they would go back to Belgrade, appoint a Bishop as prosecutor, and draw up charges which would be presented to Bishop Dionisije. Bishop Va-
9225 sarion then stated that they would report to the Holy Assembly of Bishops our refusal to accept the division of the diocese and the Holy Assembly which would consider the matter. Bishop Vasarion then
9226 came into the larger dining room and I asked him if wished to meet members of the Executive Board. He said that he would and a dialogue was conducted between the Bishops and the persons there. The tenure of the questions concerned the seeming lack of freedom of the Church in Yugoslavia due to the de-emphasis of holidays and holy festivals. The
9227 Bishops compared the removal of religion from the schools in the United States to Yugoslavia but to most questions they had no answer. The meeting then adjourned. The next time I met Bishop Hrzistom was in Lackawanna, New York, along with Dr. Sefers.

This was immediately prior to his departure for Yugoslavia and we held extensive conversations. I tried to prevail on him to remain in the United States and help our diocese and not return to Yugoslavia.

I met with Bishop Firmilian in September of that year over a lunch. The tenure of the meeting was that something should be done because the church was in a very serious crisis. At subsequent meetings, I questioned Bishop Firmilian concerning an attempt through an attorney to acquire funds in one of the local banks in Libertyville. I informed him that this man was Fidel Castro's personal attorney and had Castro's son as a guest, and I asked him why he allowed this man to represent him. He said that Father Brkich had given him the name and that he realized it was a mistake. I told him that it looked very bad. He questioned me as to what would satisfy the people here, and I told him we didn't want any interference in our autonomy and that we wanted to manage our affairs as we had done in the past. He told me to write this down in my own handwriting and he would see that I would get an answer. I wrote it on the back of a menu and I believe it is Exhibit 141-B. However, he did not transmit to Yugoslavia what I wrote, which was a request for continued autonomy in administrative matters and that the constitution remain the same. Instead, he wrote that all the rights of the American-Canadian diocese with reference to autonomy in administrative matters remain unchanged with the exception of the formation of the three diocese. This was absolutely contrary to what I said, and the reply which they sent responded that my demands were perfectly acceptable as long as the three diocese would remain.

Cross Examination.

None of the three trips which I made to Yugoslavia between 1945 and 1963 were in any official capacity as a delegate of the Serbian Orthodox Church. Nor did I go at the summons of anyone in the Synod during these times. I was not sent on behalf of the Bishop of the American-Canadian diocese, but was asked by him to do certain things. I have had personal correspondence directly with the Patriarch concerning our relationship with the Mother Church. The churches which I saw that had been destroyed in Yugoslavia were destroyed during the war. Concerning the monastery of Zhica which had to be restored within one year or be condemned, I know that the Monastery was indeed restored with funds sent by Bishop Dionisije. I believe that he sent $3,000 of his own funds. As legal advisor to the diocese, I believe I was elected at the Sabors. The reference in the constitution to legal advisor is in association with the Ecclesiastical Court in the role of the church court prosecutor. That is someone other than myself as I have never served in that capacity. I do not believe the office of diocesan counsel is referred to in the constitution. I think it is an administrative internal act. The diocesan council is a body which carries out functions as interim between the Sabors. The Diocesan Assembly has another executive body called the Plenum which acts on major problems.

The Plenum embodies the diocesan committees to include the Ecclesiastical Court and some of the monastery committees. My position was for solidarity up until May 10, 1963, and I did not want to break. I thought there was something that could be done

about this and that I could help. As an individual
9254 I did not feel that I had more authority in reference to the decision reorganizing the diocese, but as a diocesan counsel I felt I was in a position to evaluate
9260 their decision. I first became aware of accusations or complaints at the meeting of the Executive Board in April of 1963. At that meeting, the matter of rumors and charges and newspaper articles was dis-
9265 cussed. Prior to the meeting in April, I had been approached by Metropolitan Damaskin concerning personal complaints about Bishop Dionisije's person-
9266 al life. However, I was not approached personally regarding personal conduct of Bishop Dionisije by any member of the American-Canadian Diocese. The resolution, which is marked Plaintiff's Exhibit 85 prepared at the April meeting, was an expression of unity of the diocese in support of the church in Serbia against any pressure by the government in Yugoslavia.

9268 Paragraph 6 of Plaintiff's Exhibit 85 concerning certain faults of a Bishop Dionisije and assumptions about his trial and discharge was inserted based on the consensus of everyone present at that
9269 meeting. Prior to this paragraph being drafted there was some discussion concerning what the Executive Board's position would be if Bishop were to be tried by the Holy Assembly, and in effect, this paragraph
9270 was the Executive Board's position. May 10th was the first information that we ever had concerning charges pending against Bishop Dionisije. I have never, prior to May 10th, had any occasion to study canon law nor have I taken any courses or theological training.

9271 I felt that the decision of May 10, 1963, was uncanonical. I came to the conclusion having in mind
9272 the constitution of the Serbian Orthodox Church.
9274 After approximately 20 years as acting as diocesan counsel, I have had occasion to review canonical questions that have come up and am familiar with
9282 some of the basic tenets of canonical law. The diocesan council's decision to refuse to recognize the suspension of Bishop Dionisije was based in part on
9283 the advice of their legal advisor. The council was comprised of men of outstanding ability who drew upon their own knowledge and came to the conclusion
9284 that the action was so patently illegal that it should not be abided by unless due process and the provisions of the various instrumentalities of the church should be followed.

Of the 41 members who were at the Plenum meeting, all but two did not want to accept this decision per se and asked that there be an investigation com-
9295 mission. Bishop Firmilian subscribed to the opinion that the question of reorganization of the three dioceses should be submitted to the Sabor or the
9296 National Assembly. At the June 6th meeting, the matter of whether or not Bishop Dionisije should preside at the upcoming Sabor was not discussed. There were objections by Bishop Firmilian that Bishop Dionisije was, in fact, presiding at the June 6th meeting while being under suspension.

9298 I believe Dr. Seferovich showed me Plaintiff's Exhibit 121 which is the letter. I do not know of my own knowledge if Dr. Seferovich ever responded to
9299 this letter of Bishop Firmilian. I believe that I did respond to it. I wrote him a letter in which I thought

it was most inappropriate to write a letter with such officiousness to a member of the council. My letter
9302 wasn't in direct reply to Bishop Firmilian's letter to Dr. Seferovich, but there was a reference to his letter in my letter to him.

I advised the Sabor held in August that Bishop Hrzistom had stated that this Sabor was legal. I
9303 do not know whether Bishop Hrzistom was aware that Bishop Dionisije would preside at that Sabor.
9304 I do not believe that the August session of the Sabor of 1963 proclaimed complete autonomy of this diocese from the Mother Church.

9307 My signature appears on page 10 of Plaintiff's
9309 Exhibit 229. I was a member of the committee for resolutions and greetings at that assembly. Plaintiff's Exhibit 84 at page 98 is a proclamation passed by the November session of the Sabor which outlines our relationship with the Mother Church. Whenever the Mother Church will be free, we will reestablish
9310 our relationship on a normal basis. The proclama-
9312 tion states that as long as the church in Yugoslavia does not enjoy its freedom, and as long as the communist government there subjects the church to slavery, and until normal conditions exist, our diocese shall consider itself autonomous from the Mother Church.

9320 At the meeting I arranged on May 27, 1963, between Bishop Dionisije and certain other members of the council, there was a discussion and a proposal by Father Brkich to the effect that the Bishop would be pensioned and placed on full salary. These people were preparing to go to New York to welcome a
9323 commission headed by Metropolitan Damaskin which got no farther than Switzerland before it was ordered

to return back. The meeting on the 27th was to consider and discuss the Bishop's suspension order. It was at this meeting that Bishop Dionisije said, "I shall be as silent as a fish", under certain conditions. I did not, at that meeting, suggest to Bishop Dionisije to acknowledge the suspension order. I
9324 believe after Bishop Dionisije was notified of his suspension he issued a statement to the American
9325 press. The meeting in September at the Illinois Athletic Club was held after our side had already filed proceedings for a declaratory judgment.

NICK STEPANOVICH, Called as a Witness under Section 60 in Rebuttal on Behalf of the Plaintiffs, testified as follows:

9329 *Direct Examination.*

9330 Defendant's Exhibit 239 is a letter which I wrote to his Holiness Patriarch German. The only other
9331 letter which I received from the Patriarch, aside from the usual holiday greetings, is Plaintiff's Exhibit 228-A. The letter was mailed August 3 and I received it about a week later during the Sabor. The
9332 letter bears the date July 25th. The postmark on
9337 the envelope is July 30th. I am acquainted with the
9338 Rev. Dushan Shoukletovich. I have known him for about 40 years. Concerning correspondence between he and myself with reference to the controversy of the diocese, I received a letter that he wrote entitled "An Open Letter" which was mimeographed. He did not extend me the courtesy of sending me a copy of the letter and I picked it up on the street from somebody who had shown me a copy. I cannot posi-
9339 tively state that Plaintiff's Exhibit No. 230 is a copy

of the open letter to which I referred. The signature
9340 appears to be that of Father Shoukeltovich, but I have not corresponded with him in 25 years and I am not familiar with his signature.

9428 BISHOP VASILIJE OF ZHICA, testified as follows:

Direct Examination.

I am Bishop Vasilije of Zhica and am a Bishop of the Serbian Orthodox Church. My diocese is located
9429 in Serbia Yugoslavia. I was born in Jovanova Velici on December 10, 1907, and attended elementary school, gymnasium and the seminary. Classmates of
9430 mine in the seminary who have become bishops include Bishop Hrizostom and Bishop Gregory. Among
9431 the subjects I pursued at the seminary and theological faculty was the subject of canon law. This is an
9432 obligatory subject in the seminary. I was ordained
9433 a priest in 1934. I took post graduate work in Athens, Greece and at the college of Theology of Patriarch of Constantinople and in February of 1937 I received
9434 my doctorate degree and returned to Belgrade. After
9436 my studies were completed I was appointed as a clerk in the Holy Synod with the duties of recording documents and acts which were passed. Then the Holy
9437 Synod transferred me to the seminary at Prizen as
9439 an associate professor. I continued to teach at other seminaries until World War II when all church func-
9440 tions came to a halt. We were occupied first by the Germans, then the Hungarians and Bulgarians. During the war the Holy Synod appointed me to Bishop Nikolai Vilimirich to assist him as his administrator. He is the same Bishop Nikolai who had been in this country. Bishop Nikolai lived at Zhica and we re-

mained there until July 10, 1941. Since he was a great friend of the English and the Americans, the Germans ordered that he not be allowed to administer his diocese and he was sent from Zhica to another
9441 monastery by the name of Ljubostinja and was confined there. I went with him and we remained there until December 16, 1942, when the Gestapo came and drove us to the monastery Voljvolvica and brought the nephew of Bishop Nikolai with us. He was a civilian. When we arrived we were placed under guard by the Gestapo. In May of 1943 the Gestapo brought the Serbian Patriarch Gabriel Djuich to that monastery. We remained there until September of
9444 1944. In September of 1944 the Gestapo removed Patriarch Gabriel and Bishop Nikolai and Bishop Nikolai's nephew and I remained at the monastery under guard. On September 24, 1944, and upon the intervention of Metropolitan Joseph, the Germans took us to Belgrade at the Patriarchate. I remained there until about the end of November when I was sent by Metropolitan Joseph to my village of Jovanova with instructions to remain there until condi-
9445 tions got better. I remained there until May of 1947 when the Holy Assembly of Bishops under the presidency of Patriarch Gabriel, who had then returned to Belgrade, elected me as Bishop of Banjaluka in Bosnia. I was elected Bishop by the entire Holy Assembly of Bishops under the presidency of Patriarch Gabriel. After my election I was consecrated and then I went to the See of my diocese. Upon my
9446 election as Bishop by the Holy Assembly of Bishops I received documentation to that effect called a
9449 Grammata. At no time did I receive any other document from the government of Yugoslavia.

I have examined DX 29A and have an opinion as to what it is. In Old Yugoslavia the state recognized the church; the church was not separated from the State and as a token or sign of cooperation between the state, when the Holy Assembly of Bishops elects someone as a Bishop, he receives a Grammata like I received and it informs the state that such a person was elected as Bishop of a particular diocese. This was more of informative nature and then the government would issue on behalf of the King a Ukazj which was not a grammata but was an acknowledgement of the civil authorities that the person had been appointed Bishop. To my knowledge from the time I became administrative clerk to the Holy Synod in 1937 to the year 1942, there was never any occasion when any document was received emanating from the Yugoslavian government after it came to power or the royal government up until the time it was deposed relating to or bearing upon the election of a Bishop prior to the action of the Holy Assembly in electing that Bishop. Since I was made a Bishop I have been elected a member of the Holy Synod four or five times. I was a member of the Holy Synod during the Sabor of 1963 held in March. Generally speaking the Bishops at meetings of the Holy Assembly of Bishops remain in residence at the Patriarchate until the Sabor is completed. There is no permanent position in the Serbian Orthodox Church which serves as a prosecutor's office. The constitution provides for a diocesan ecclesiastical Court but they are also permanent. They can be on a continual basis to go from case to case. The constitution does not contain any provision with respect to a prosecutor but the Synod appoints one as needed. The Holy

Synod of Bishops made the decision appointing me as the prosecutor in the case of Bishop Dionisije and it was my duty to write the indictment from the material that the Holy Synod had given me.

My studies included the history of the Serbian Orthodox Church. I am not aware as to whether or not there have been prior occasions in which the Holy Assembly has had proceedings with respect to Bishop Dionisije. I do not know whether prior to this time there had ever been a proceeding for the defrockment of a member of the Holy Assembly of Bishops. I am familiar with PX 16A which refreshes my recollection that I was appointed by the Holy Synod of Bishops to write an indictment concerning Bishop Dionisije on the third of September 1963. As a member of the Holy Assembly of Bishops I was obliged also to participate in the trial. The Holy Synod of Bishops provided me with material from which I prepared the indictment. In general categories the documents from which I drafted the indictment concerned first the renouncing of obedience from the highest church authorities both the Holy Synod and the Holy Assembly and secondly the Bishop's behavior and the conduct of his life which is unbecoming to a high church dignitary.

Based on my personal knowledge of the history of the Serbian Orthodox Church, I do not know of an instance where there has been a defrockment of a Bishop prior to that of Bishop Dionisije. I reviewed and read everything which was included in the indictment. The indictment was prepared from letters, articles from newspapers, statements by various people and clergy who were complaining about the life and activities of Bishop Dionisije. The Holy

Synod provided me with all reports and material on Bishop Dionisije and I did not have to consult with anyone in the preparation of the indictment.

(Offer of proof.) In preparing this indictment I considered Plaintiff's Exhibit 74 and 75. I also took into consideration some of the items in Plaintiff's Exhibit No. 8 which can be seen from the indictment itself. I can't recall whether I took every single point or whether I used all the points but the ones I used are in the indictment. Apart from the question of what I used I considered all of the items in preparing the indictment set forth in Plaintiff's Exhibit No. 8 (End of the offer of proof.)

After I prepared the indictment I forwarded it to the Holy Synod which sent it on to Bishop Dionisije. The enclosures, which reference is made in the indictment, marked Plaintiff's Exhibit 16A were not sent to Bishop Dionisije. He was only sent the indictment. According to the regulations of the Church only the indictment and not the enclosure are required to be sent. I believe this is covered in paragraph 49 of article 69 of the penal code. In point 3 of article 69 it specifies what an indictment should contain when it is sent to the accused and it states: "The indictment must contain the offensive act described by time, place, manner of committing or manner which it was committed for which the accused is charged with, its characteristics which are necessary for the application for the penal regulations of these rules."

There is no provision in the penal code in article 69 or 70 which requires the enclosures referred to in the indictment of a Bishop to be transmitted to the Bishop with the indictment. There is nothing in the

constitution of the Serbian Orthodox Church or the Canons applicable to the Church or the customs, practices and regulations of the church, whatever they may be that in my opinion require enclosures referred to in an indictment of a Bishop to be transmitted to the indicted Bishop along with the indictment itself.

VASILIJE, BISHOP OF ZHICA, testified:

Direct Examination (Continued)

The Holy Assembly of Bishops of the Serbian Orthodox Church is empowered to interpret the canons, penal code and constitution of the church. There is no other body with such power. After such an interpretation has been made it is not subject to review by any church, or civil authority. I base that statement on the fact that the assembly is the highest body which renders decisions and regulations in the church. Its interpretations and regulations are then executed by the Holy Synod or transmitted directly to the Diocesan Bishops who apply them to the life of the Church. The constitution of the Serbian Orthodox Church supports this position, as do the canons. The Holy Assembly did not provide Bishop Dionisije with a supplemental indictment as he had not replied to the first indictment over a period of two months. It was felt that he would not respond to the supplemental indictment either and the offenses which are cited in the supplemental indictment are those which he himself admitted in his circular letters and his decisions which he published and which he sent to us. I participated in the meetings of the Holy Assembly of Bishops at which the indictment with respect to Bishop Dionisije was considered and

acted upon. I cast my vote with the other members of the Holy Assembly of Bishops for the defrockment of Bishop Dionisije. I was permitted by the canons of the Orthodox Church to prepare the indictment and transmit it to the Holy Assembly of Bishops and then sit in judgment with my fellow Bishops in respect to Bishop Dionisije.

9584 It is my opinion that Article 77 of the constitution of the Serbian Orthodox Church does not apply to the Holy Assembly when it is sitting in judgment of an indictment against a fellow Bishop. I main-
9585 tain that this provision only applies to lower courts but that the Holy Assembly as the highest judicial body does not fall within the purview of this article.
9586 It is my opinion that the great ecclesiastical court does not have jurisdiction to sit in judgment upon a
9587 Bishop of the Church. Concerning whether or not the enclosures to the indictment must have been provided to Bishop Dionisije it is my opinion that Article 67 of the penal code and in particular the last paragraph thereof has no application to an indictment against a fellow Bishop. The last paragraph
9588 of that article has to do with the investigation and not with indictment. Article 69 is applicable and states precisely what goes into an indictment. In no case written information, submission of enclosures forwarded with the indictment.

9589 I am familiar with PX 232A and can state that this was among the documents I used in preparing the
9590 indictment. I am familiar with the hand writing of the individual who prepared this document as we were class mates at the Belgrade Theological Faculty. He is known by a lay name and a clerical name.

He is Hiermonk Arsenije and is also known as Professor Mihailo Toshevich. The original of PX 232 is contained among the books and records and documents and archives of the Holy Assembly of Bishops in the Holy Synod in Belgrade. PX 232A is a true,
9591 correct and accurate xerox copy of the original docu-
9600 ment. An interpretation made by the Holy Assembly of Bishops regarding the canons or constitution or penal code of the Serbian Church is binding upon all the individual members of that assembly, in my
9601 opinion. Were a member of the Holy Assembly to refuse to honor an interpretation of the canons, constitution and penal code made by the Holy Assembly, he would be subject to discipline. This would be a matter requiring an indictment. Such an offense by a Bishop would be sufficient for the Bishop to be de-
9602 frocked. I believe the 74th rule of the apostolic rules
9603 supports this opinion. The apostolic rules are the
9605 canons of the church. In preparing the indictment I
9606 employed newspaper clippings. I used those articles and writing because they also appeared in documents written to me personally. We also did not receive a written reply from Bishop Dionisije that these articles were not true.

9609 *Cross Examination.*

Article 69 of the Church Constitution at point 27A deals with rules which apply to the trial of a Bishop
9610 for canonical offenses. Referring to the Holy Synod of Bishops in Article 70, sub paragraph 35 sub points (a) and (b) also covers the point in question.
9611 The penal code applies as it would in the case of a Bishop judging in his Diocese or the great church court judging lower clergy persons. I feel that for

disciplinary offense a Bishop would be tried by the Holy Synod with the right to appeal to the Holy As-
9613 sembly. In article 90 of the penal code which states that in those cases provided for in Article 69.27 and 70.35 of the Constitution of the Serbian Orthodox Church the rights of the Diocesan Bishop as provided for by these statutes shall be assumed by the Holy Assembly of Bishops respectively, the Holy Synod of Bishops according to the regulation of the Constitution of the Serbian Orthodox Church and the regulations of these bodies for conducting business applies only to the agenda and not the affairs.
9614 I drew my indictment according to the procedures of these provisions and I believe it was drawn in a true, correct and proper form. In the event that the
9615 indictment was not properly drawn according to the revisions of the constitution and penal code the Holy Synod of Bishops would have returned it to me with comments to correct it. In this instance the indict-
ment was not returned to me for any addition or cor-
9618 rections. If I drew an indictment against the Bishop which was not properly in accord with the articles of the constitution and the penal code it is my expert opinion that such an indictment could not be-
9620 come effective. In accordance with Article 70.35 sub paragraph B, I provided in the indictment against Bishop Dionisije, which is PX 16, that the Holy Synod was the Court to judge Bishop Dionisije in the
9621 first instance. 35-B applies in the first instance of canonical offenses of Bishops. This assumes that the Holy Assembly of Bishops would be the Court to judge the accused in the second or last instance. I cited Article 69 of the penal code when I stated that the indictment did not have to be accompanied by

other documents. I specifically pointed out sub paragraph 3 which provides that the transgression described should be described according to time, place and manner committed, and it characterizes which are necessary for the application of the penal regulations of these statutes.

9622 I conformed the indictment against Bishop Dionisije to the provisions of section 69.3 of the penal code, in my opinion. I have examined page two of
9623 PX 16A. There are red penciled numbers in the left hand margin. Number 1 in red is next to a paragraph which begins with the name "Jovan Dutch-
9624 ich". The quotation of Jovan Dutchich states "There are persons blind for colors, but this one is blind for
9625 morals." Regarding whether or not I cited the time and place when the statement was made I wish to say that this was taken from the enclosure of Dushan Popovich in which he cited what different people said. Therefore it was not necessary for me to cite
9626 the place and time. The time and place where this statement was made was set forth in Dushan Popovich's letter. Popovich mentioned Gary where there was a gathering of some kind and again he cites the words of Jovan Dutchich "If this, our Bishop, were a woman, he would have a little booklet." The para-
9627 graph number four in this document does not say
9628 the place or time. I have examined page three of this document, the paragraph marked with the red penciled number six which begins "this part of Jevdjevich's article."

9630 I have also examined DX 74A, and concerning the incident which occurred in the car, I can state that I left out the names of some of the witnesses to this occurrence when I transposed it from Popovich's

letter into the indictment. The two names left out were Stephen Mihailovich and Milutin Kostich. In compiling the indictment I also used unsigned letters or complaints, but these submissions were brought and handed to Metropolitan Damaskin when he was in the United States and he was requested to accept them without signatures because the people were afraid of retaliation by Bishop Dionisije. Article 65 of the penal code states that unsigned submissions will in no case be taken into consideration, but I do not believe that it applies in this case. I did not have any discussions with Metropolitan Damaskin before I prepared the indictment because he submitted his report to the Holy Synod. I got my information that Metropolitan Damaskin had been assured that there were witnesses to support these unsigned submissions through his report of this to the Holy Synod of Bishops. I do not know whether that report to the Holy Synod by Metropolitan Damaskin was oral or written. I was a member of the Holy Synod in 1960, 1961 and until May of 1962. I never saw the names of persons who were prepared to support the unsigned complaints as those were private letters which remained with the Metropolitan. I do not know if Metropolitan Damaskin recorded the names of these people who supposedly can support the unsigned complaints prior to his death. It was my position in 1956 that unsigned submissions and paper clippings could not be used in making charges against either a Bishop or any other priest. I have examined DX number 184A which is a private letter by me to a Christmas card which Arsenije had previously sent me. In that letter the person I was referring to when I said "Nothing can be undertaken here until either a judgment appears" was Bishop Dionisije.

In the period of time prior to 1956 I had been receiving private letters containing charges against Bishop Dionisije. On one occasion I turned over one of these letters and Bishop Dionisije learned about this and called the party who had written to me and threatened him. This person was Nikanor Balach who was a monk whom Bishop Dionisije later defrocked. I did not submit my personal correspondence to an appropriate church body for investigation at the time I received them. And especially so after this letter which I gave to the Synod when I found out how Bishop Dionisije acted toward the gentlemen who had written it. It is another matter that the gentleman I mentioned was defrocked because he got married. His marriage occurred later. I only recall this one instance of having turned something over to the Holy Synod and I cannot recall the exact date. I believe it was in the fifties and I had been a member of the Holy Synod during the fifties.

There were not any charges of which I am acquainted that the Holy Synod officially sent to Bishop Dionisije requesting a reply. Someone may privately have informed him but there wasn't any obligation for me to submit my personal correspondence to the Synod as they received submissions directly. It was not always the custom to send the charges to Bishop Dionisije for reply but from time to time they were sent and sometimes a reply was not requested but only a warning sent. Some of the communications from Patriarch Gabriel, Patriarch Vikentije and German that went to Bishop Dionisije warned or requested Bishop Dionisije not to engage in political

activities. Occasionally during the fifties I had communications with Bishop Dionisije. In my correspon-
9650 dence with Bishop Dionisije I did not advise him that I had personally received communications from persons in the United States making charges against him.

9651 I am familiar with canon 74 of the Apostolic Canons which states that when a Bishop is accused of something he must be summoned by the Bishops and if he refuses to obey he must be summoned the second time by sending two Bishops to him and even then if he refuses to obey he must be summoned a third time by two Bishops again being sent to him and only after that if he fails to answer or respond may the Synod decide the matter against him, even though he fails to appear. I have stated that it was
9653 the duty of the Holy Assembly of Bishops to interpret the constitution, penal code and the canons of the Serbian Orthodox Church and I believe that it is self evident and clearly flows from the canons themselves that the highest authority for interpreting is
9659 the Assembly. I did not have a private opinion and do not feel that I am authorized to state whether or not the Holy Assembly is infallible.

9660 Since I became a Bishop in 1947 there has been no written statement that the Holy Assembly is in-
9661 fallible. Article 60 of the constitution states the decisions of the Holy Assembly and Holy Synod on canonical or ecclesiastical matters are valid and final.
9664 I have no opinion but the position of the Holy Assembly of Bishops is that a Bishop is obliged to abide by every decision the Holy Assembly and Synod
9666 renders. Under article 65 of the constitution un-

signed submission would not be taken into account. Article 67 permits oral reports and unsigned statements which might provide an investigating bishop with information indicating to him that a more thorough investigation should be undertaken. It is my opinion that article 67 has reference to the in-
vestigatory stage of the proceedings. The penal code
9667 states that copies of complaints may be given to the accused but not that they must. It is and has been
9668 the custom since the adoption of this code in 1961 and prior to its adoption under the old code to furnish persons accused with copies of complaints in the course of the investigation so that the accused can respond thereto.

9672 I prepared a supplement to the original indict-
9673 ment on March 5, 1964. This supplement was not
9674 reduced to writing but was delivered orally before the Holy Assembly of Bishops and of course Bishop Dionisije was not there. The supplement was not
9675 sent to him. Based on my experience in connection with ecclesiastical courts, indictments against the accused have been presented orally by the church prosecutor in certain circumstances. This would occur only if there were supplements as there were in this case and they were not always sent. I voted in
9676 favor of the judgment which was rendered against Bishop Dionisije on March 5, 1964 and Metropolitan Damaskin, Bishop Nikanor, Bishop Hrizostom and Bishop Vasarion all voted in favor of that judgment.
9677 All of the Bishops of the Serbian Orthodox Church with the exception of Bishop Dionisije voted on that judgment which was rendered against him. The three Bishops who were consecrated in the United States that is Bishop Firmilian, Bishop Gregory and

Bishop Stefan did not participate in the judgment as they did not attend the assembly meeting. The Macadonian Bishops by regulation are not members of the Holy Assembly of Bishops of the Serbian Orthodox Church. As antonomous they are part of the Serbian Orthodox Church. They are an integral part, autonomous but within the Serbian Orthodox
9679 Church. I did not know of any proceedings instituted against the Bishop prior to those instituted against Bishop Dionisije. Those concerning the Bishops in Macedonia occurred after that of Bishop Dionisije.

9683 At the time I was elevated to the rank of Bishop in 1947 the Tito government was in power in Yugo-
9684 slavia. When Yugoslavia was a kingdom the church was not separated from the state and there was an agreement between the church and state that when the assembly elected a Bishop and the Patriarch was two or three bishops would consecrate him they would issue to him with their signatures a Grammata of his election and consecration. Then in behalf or in the name of the King the government would issue a Ukos whereby the state authorities were informed that the respective person was elected by the church and that the state did not object to this election or
9685 appointment. The Ukos only confirmed the appointment. There was a provision in the constitution of 1931 which referred to this confirmation by the state. I was first advised I was going to be called as a witness in this case in March of this year. To come to
9686 testify I was not required to get clearance by the religious affairs commision of the government but only required a passport and a visa. Since my ar-
9687 rival in the United States I have had occasion to

visit the Monastery in Libertyville. I believe the
9688 first time was on June 2nd. The second time was on the church memorial day.

9692 *Redirect Examination.*

To my knowledge in the history of the church the Holy Assembly has never called a fellow Bishop to
9693 account. To my personal knowledge no Bishop of the Serbian Orthodox Church has ever been defrocked with the exception of Bishop Dionisije. Con-
9694 cerning the Holy Synod sitting as a court of first instance in proceedings defrocking a Bishop the penal code makes no reference. In the church constitution there was a reference which was not in practice and it is now indicated that only the Holy Assembly can judge in the assembly by its decision has in effect eliminated the provision that the Synod judges in the first instance. I earlier stated that an
9695 indictment drawn against a Bishop for his defrockment was not in accordance with the constitutional or penal code would not be effective. After I wrote the indictment I gave it to the Holy Synod who read it, reviewed it and ascertained that it complied with all the formal regulations of the church. Had the Holy Synod decided that it was not in accordance with the regulations of the Church it would have returned it to me with instructions as where correc-
9696 tions should be made. In view of the fact that the Holy Synod sent the indictment for reply, I believe this confirms that the indictment was properly writ-
9697 ten. If the Holy Assembly were to adopt an indict-
9698 ment, in my opinion, that indictment must become
9700 effective. In my opinion, once an indictment of a Bishop of the Serbian Orthodox Church looking to

defrockment is voted upon and approved by the Holy Synod and accepted by the Holy Assembly of Bishops it cannot be in violation of any canon or rule or regulation of the Serbian Orthodox Church or its constitution or penal code.

9704 I have examined PX 16A and find the following: "Enclosure No. LV from the Article 'The Black
9705 Dionisije' of Dobroslav Jevdjevich in paper; 'The Serbian Independence, No. 159 of 1961 page 219.'" PX 233A is identified in PX 16A.

9711 (Offer of Proof) When I prepared the indictment and in particular pages two and three thereof I had before me in its published newspaper form as it appeared in the "Serbian Independence No. 159 of 1961, page 219" the article entitled "The Black Dionisije." Dobroslav Jevdjevich was a Vojvoda of the National Forces of Chetniks who fought against the occupiers during the last war. Vojvoda means the highest rank in the army.

9714 I testified that I did not include the names of Mr. Mihailovich and Mr. Kostich as well as other names in the indictment. These men were witnesses to a discussion between two others who I named and did not feel that the witnesses need be specifically de-
9715 scribed. I have stated that in general in investigations in Church Courts, Ecclesiastical Court and Lower Church Courts ordinarily it was the custom and practice to transmit the complaints and submissions to the accused. However, in this case the Synod did more by sending two Bishops with the material to see Bishop Dionisije but he refused to reply at all. (End of Offer of Proof)

9716 *Recross Examination.*

9720 "Stipulation by Plaintiffs that an action was taken subsequent to Bishop Dionisije's defrockment against the Macedonian Bishops."

9721 I became Bishop of Zhica in 1961. When I arrived
9722 at that Diocese I found everything in order at that time. I had occasion to file an accusation with the Holy Assembly concerning some funds which in my opinion were missing. The Civil Courts sen-
9723 tenced the guilty party for six years of imprisonment and after serving part of the sentence he was released because of illness and died about two years ago. My predecessor as Bishop Zhica is the man who is today Patriarch German. He is not the one
9724 against who I made the accusations when I first took over the Diocese.

9727 I filed a report with the Holy Assembly of Bishops concerning funds missing from my Diocese. The report concerned the secretary who was responsible and the treasurer of the Diocese and the Civil Court sentenced the Treasurer. When I first made the re-
9728 port I did not ask that the former Bishop of the Diocese that is Patriarch German give an account-
9730 ing. The Holy Synod is no longer the Court of first instance in the case of proceedings against a Bishop. This case will be held before the Assembly in matters of a serious canonical nature.

VISARION KOSTICH testified as follows:

Direct Examination.

I am the Visarion Kostich who testified last year
9734 in this case and I am the author of the penal code of the Serbian Orthodox Church. Canonical offense of
9735 a bishop is not judged in the first instance by the

Synod. There is no provision in the constitution requiring judging by the Synod in the first instance.
9736 The bishop is judged by the Assembly. The Synod functions as a diocesan bishop. The work of the Synod is under the control of the Assembly. The Synod is one of the executive organs of the Assem-
9737 bly. Every member of the Assembly has a right to appeal from disciplining by the Holy Synod to the Assembly. There is no appeal from a decision of
9738 the Assembly. Part of Article 63 of the penal code
9739 refers to discipline of a bishop. The Holy Assembly may not undertake prosecution of the defrockment of a bishop and render judgment without submitting the matter to the Holy Synod. The Synod investigates the matter, reviews the papers and informs
9741 the Assembly. When the Synod examines the complaint and the indictment and reply and finds that all of this now exceeds its competency it forwards it to the Holy Assembly. The Assembly appoints a committee which considers the matter and then it goes to the whole Assembly for decision. The deci-
9742 sion is then entered in the minutes. The Assembly
9745 ordered the Synod to initiate proceedings. There is no rule which prohibits a bishop from participating in the judgment of a fellow bishop. There is no rule which prohibits the member of the Holy Assembly
9746 who drafts the indictment from participating in the hearing and sitting in judgment. All bishops are obliged to sit in the judgment. This includes bishops
9747 who participate in the invetsigation. There are canons that speak of the work of the Assembly. A bishop
9748 who is being judged cannot attend the meeting of the Assembly.

9749 Only the text of the indictment need be sent to a bishop. It is not required that the complaints or documents that are identified in the indictment be
9750 sent to the bishop. PX 17A was prepared by us on the authority of the Assembly of Bishops. There are no regulations which authorize this communication. The penal code provides that one cleric cannot
9751 insult or slander another. PX 17A is not slanderous, it is "pure truth." There is no provision of
9754 the constitution or penal code that prohibits the Assembly from considering complaints more than three months old. Article 61, paragraph 2 of the penal code which provides "a private" complaint may be submitted within three months counting from the day when the injured party first learned of the committed act and of its perpetrator" does not ap-
9755 ply to the work of the Assembly or Synod, because
9757 the church is the accuser. Articles 60 and 61 of the penal code do not apply to proceedings against a
9760 bishop looking to his defrockment. The jurisdictional organ in the case of a bishop is the Assembly. The
9761 constitution and the penal code do not prohibit unsigned or unsworn complaints against a bishop being taken into consideration by the investigators. Ar-
9762 ticle 65 of the penal code refers to documents submitted in court. There is no provision requiring that the proofs cited in the indictment must be transmitted to the accused. The Holy Assembly always has
9763 the right to reorganize dioceses. When a diocesan bishop is under suspension he automatically does not participate as a member of the Assembly. What I
9765 have said would be applicable to 1962, '63, '64 and '65. The Assembly of Bishops is not infallible.
9766 There was a supplemental indictment of Bishop

Dionisije. It was not served upon Bishop Dionisije. This did not violate the rules of the church. If the person who is to be heard refuses to participate in the proceedings the offense is taken as admitted. When the bishop refused to participate he placed himself outside the church and therefore we didn't send him the supplementary indictment. A defrockment is final.

The Serbian church has not rendered a specific decision about birth control. In my opinion PX 127A is not an appointment of Patriarch German as the administrator of the dioceses mentioned in PX 126A. An administrator does not have authority to give dispensations when he is not a bishop. Bishop can, for example, permit a marriage during Lent. A clergyman is not obliged to submit to somebody who is no longer a bishop. A cleryman would be subject to penalties if he did. A clergyman who has been properly defrocked cannot be restored to rank. The procedures against Bishop Dionisije did not violate the 17th canon of the Fourth Ecumenical Council. The procedures against Bishop Dionisije were not in contradiction of apostolic canon 74. Canons 13, 14 and 15 provide for separation from the bishop who preaches schism. The proceedings against Dionisije did not violate these three canons. The 17th canon of the Fourth Ecumenical Council was not violated by creating three new dioceses. (PX 236, 237 and 238 are offered and received in evidence.) I do not recall an Archbishop Paul who was defrocked in the sixteenth century. There was a Bishop George who died as a bishop. There was a Metropolitan Michael who lived in 1883. He was not defrocked. There was a Bishop Sergis. I did

not hear that he had been defrocked but Bishop Vasilije would know more details about him. I know a Bishop Dimitri. He was pensioned and we buried him as a bishop in retirement. He was not defrocked.

PX 196 is the report Bishop Hrizostom and I prepared in Youngwood on July 20, 1963 for the Synod. The handwriting on it may be that of Zivan Stefanovic.

Bishop Dionisije refused to sign the minutes as bishop of the Midwest diocese. I do not recall if Bishop Dionisije said he refused to sign the minutes of the Midwest diocese. There was nothing said about the minutes not stating bishop of the Midwestern diocese. PX 196 is a true and accurate copy of the original.

At the Indian Club we did not say to Bishop Dionisije that we did not have the complaints referred to in the indictment. Bishop Dionisije did not ask to see the documents. I was employed in the Holy Synod in 1938 and 1939. I helped prepare the grammata which was issued to Bishop Dionisije. PX 29B is not Bishop Dionisije's grammata that I helped prepare. The grammata is a written document issued by the church justifying that someone was consecrated into the rank of a bishop. A grammata signed by the Patriarch and the members of the Synod. PX 23A is a grammata of the Serbian Orthodox Church in its newest form. A tax was paid in 1938 and '39 by the bishop to the church for the issuance of a grammata. I had occasion to search for a receipt that Bishop Dionisije paid the tax. I first saw PX 239A when it was registered in the Archives of the Synod. The signature at the bottom is that of Bishop

Dionisije. In the upper left hand corner of PX 240A
9850 is the number 5623. This is the reference number
9851 of the Holy Synod. It is signed by Metropolitan Joseph and it has the coat of arms of the Serbian
9852 Orthodox Church and the seal of the Patriarchate.
9853 When a priest is elected a vicar or bishop he has to pay a tax and a grammata is issued.

(The witness translates portion of PX 240A "for the decree for the election of in position of vicar bishop of his Holiness Patriarch." Defense counsel notes that the English translation uses the word "grammata" instead of "decree".) (Court accepts
9864 PX 239A, 240, 240A and B in evidence.)

9866 The Serbian word for decree is spelled "decrete."
9868 The Serbian word for grammata is spelled "gramata". The word "decrete" does not mean decree
9871 in this exhibit. In 1940 and '41 bishops were paid by the central treasury of the church. I reviewed
9872 the Archives of the church with reference to Bishop Dionisije being paid as a bishop. PX 241A bears the coat of arms of the church, is dated February
9873 13, 1940, and bears the signature of Metropolitan
9876 Joseph. The first words at the top of PX 242A is "receipt". It bears the signature of Bishop Dioni-
9878 sije. PX 242A bears the handwriting of Bishop
9880 Dionisije. There is a signature of Protopriest Plagich. I assume the accounting department signed it. This is a true and correct copy of the original in the Archives.

BISHOP VISARION KOSTICH testified as follows:

Cross Examination.

9884 In my opinion canonical offenses of a bishop are not judged in the first instance by the Synod. The Synod, after the Bishop Dionisije case, judges only
9886 eventual disciplinary transgressions. Articles 69 and 70 of the constitution have been changed so that canonical offenses of bishops are judged by the As-
9888 sembly now. The Assembly in judging Bishop Dionisije acted both in the first and in the second instance.
9890 Article 70.35 of the Serbian Orthodox Constitution was not used in 1963 and 1964. The matters which the Synod were to judge in the first instance were written in the constitution in 1963 and 1964 but these provisions were not enforced. Article 70.35 of the
9891 constitution refers to the Synod's judgment in the first instance of canonical offenses of a bishop. It was written there since 1947.

9892 The paragraph in the indictment (PX 16A) entitled "Authorized the Holy Bishop Synod" is not
9893 false. This paragraph in the indictment is based upon the regulations of the penal code of the Serbian Orthodox Church, Article 90. The Holy Assembly of
9896 Bishops did not judge any cases in the second instance in 1963.

69.27B of PX 68, the Serbian Church Constitution,
9897 was in force in 1963. This paragraph is a remainder of the constitution of 1931 which provided that the Assembly considered the marital matters of the royal
9900 family in the second instance. (This Court states to Bishop Visarion that it has the impression that he is
9901 becoming "irked" by his position as a witness and requests the Bishop to give direct and unequivocal responses and to answer with a yes or no when that

is possible. Witness states that he feels that requiring
9902 a yes or no answer from him is being rude). I recall testifying Monday that there is no provision of the constitution or penal code which provided that the Assembly judged in the second instance in the case of canonical offenses of bishops involving defrockment. Chapter 9 of the judgment indicates that the
9903 Assembly acts as the court for the judgment of bish-
9904 ops. This provision in the judgment has not been placed in the constitution or the penal code as yet.

I testified that in my opinion the Synod acts as the arms of the Assembly or as a technician under the control of the Assembly in cases involving the canonical offenses of a bishop leading to defrockment. The Holy Synod is not an independent branch of the Ser-
9905 bian Orthodox Church. I have read Article 59 of the constitution of the Serbian Orthodox Church. Article 59 does provide more or less that the Synod is the highest executive body of the Serbian Orthodox Church but that doesn't preclude the Holy Assembly of Bishops as a supreme authority in the church from acting on things which were transferred to the Synod
9907 because the Assembly was not in session. Article 59 provides that the Holy Synod is the highest executive body of the Serbian Orthodox Church. Article 57 pro-
9910 vides that the Holy Assembly is the highest legislative body of the church. The highest judicial authority for the trial of transgressions of priests and civilians in the Serbian Orthodox Church is the High Judge Court, the Supreme Church Court. Article 71
9911 refers to this court. The reference in Articles 71 to cases which come before the jurisdiction of the Holy
9912 Bishops' Assembly and the Synod is a reference to offenses of bishops.

I recall testifying that in my opinion Article 73 of the penal code provided that the Synod was to perform technical functions on behalf of the Holy Assembly of Bishops in the prosecution of canonical of bishops. This is clarified in Article 90 of the penal code. Atricles 90 and 63 are the only two which refer
9914 to the jurisdiction of the Assembly or Synod in the penal code as far as it can be applied in cases of bishops considering canonical regulations. The Assembly has the supreme authority to assume the rights of a diocesan bishop under Article 90. There is no regulation in the constitution which points out when the Holy Assembly would act as diocesan bishop but Article 69.29 says that the Assembly does other business according to this constitution and according to the canonical regulations. The Holy Synod acted
9915 as a diocesan bishop in the case of the trial of Bishop Dionisije. I recall testifying that in my opinion the
9916 Assembly of Bishops orders all proceedings involving the defrockment of a bishop. The investigating commission was appointed by the Holy Synod. The prosecutor was appointed by the Holy Synod. The indictment was returned by the prosecutor to the Holy Synod. The extension of time for Bishop Dionisije to
9917 answer the indictment was given by the Synod. The
9918 indictment was drafted under Article 69 of the penal code. There are no regulations which prevent a bishop from taking part of the judgment. All members of the Assembly save for the members involved in the case takes part of the judgment. There are no provisions in the constitution or the penal code which provide that all members are to participate. There is only a basic canonical rule that in a judgment all bishops of the church take part. Bishops Firmilian, Gregory and Stefan did not vote on the judgment. None of

the Macedonian bishops voted on the judgment. Three bishops from America and three from Macedonia failed to vote in the judgment against Bishop Dionisi-
9920 je. Article 77 of the constitution was in force and effect in 1963 and '64. Article 77 refers to the Su-
9921 preme Judicial Courts which judge offenses of the clergy, monks and laymen and matrimonial disputes. It is my opinion that in the case of the trial of a layman or a monk or a priest a member of the court who has participated in the investigation or who is personally interested may not vote in the judgment but that in the case of a trial of a bishop such a person could vote on the judgment.

9922 In my opinion the indictment satisfied the requirements of Article 69 of the penal code. In my opinion
9926 the Holy Assembly of Bishops was required to comply with the provisions of Article 69 of the penal code in the proceedings against Bishop Dionisije. If the
9927 Holy Assembly found that the indictment didn't satisfy the requirements it could return it back to the Synod and the Synod would send it back to the prosecutor who would comply with the remarks of the Assembly.

9929 BISHOP VASARION KOSTICH testified as follows:

(continue—cross-examination)

I do not know Dr. John Meyendorf but I have heard his name, but I have not read any of his books
9930 or treatises. I cannot recognize him as an authority as I only know him by name. I am not acquainted with what text books any teacher in theological school uses and do not know if any of his books or treatises are used as text in any Serbian Orthodox Seminary.

9931 I testified that there is no Appeal from the decision of the Holy Assembly of Bishops regarding a defrockment of a Bishop.

9931- (Offer of Proof) Dr. Meyendorf's testimony that
9935 there is a right of Appeal under Canon 9 and 17 of the Fourth Ecumenical Council, that if a Bishop is dissatisfied with a decision of his immediate superior, he may Appeal the Judgment to the Exarch of the Diocese or the Bishop of Constantinople is correct as far as it relates to a metropolitanite council, but if it was a patriarchal council, there is no Appeal. (End of Offer of Proof.)

9937 Offer admitted.

9940 In my opinion Canon 9 or 17 of the Fourth Ecumenical Council have no application to the right of Appeal from a decision of the Serbian Orthodox
9941 Holy Assembly of Bishops. There is no article of the Constitution or Penal Code which provides that there shall be an Appeal from the decision of the Holy Assembly of Bishops regarding the defrock-
9942 ment of a Bishop. It is not written anyplace. Ar-
9943 ticle 70 of the Penal Code applies to the binding affect of the matter in the proceedings against Bishop Dionisije. In my opinion statements or complaints from witnesses need not be enclosed with the indictment. It is my opinion that the accused need not be given copies of the statements of witnesses at the Hearing by the investigator. They don't have to be given.

9944 The 74th Apostolic Canon have application to this
9945 case and related Canons. Canon 74 requires that the Bishop be summoned by two fellow Bishops on three separate occasions and had application at the time and for the case for which the Canon was issued. In

the interpretation of the Canon it is said that later it was considered sufficient that it be in writing. Everything is said in the interpretation of that
9946 Canon. A Bishop is summoned before all of the Bishops and by the Bishops.

9947 Bishop Dionisije was not given notice of or invited to the March, 1964 Assembly of the Holy Assembly of Bishops. Bishop Hrizotom and I summoned Bishop Dionisije to take from him the words relating to the acts, and documents relating to the charges against him. He was not summoned for the trial.

9948 (It is conceded by attorneys for the plaintiff that the indictment wasn't prepared and voted on until the Fall, 1963.)

9949 I do not recall that I testified that it was my opinion that unsigned and unsworn enclosures or statements may be considered by the investigators and incorporated into the indictment.

9950 Unsigned statements may be considered even though the author of them may be ascertained. After inspecting defendant's Exhibit 61-A, I cannot say who the author of that document is.

9951 This document was written by the person who says in connection with their talking together that according to our own wish I send you this information. Probably that is Bishop Damaskin. The document is signed "admirer", it is an enclosure to the indictment and it is not signed. It is enclosure #32.

9952 I cannot answer by whom the document was written.

9953 I testified that the Holy Assembly of Bishops has the authority to recognize Dioceses.

In 1963 the Holy Assembly of Bishops had the authority to amend the Constitution of the American-

Canadian Diocese without the approval of the Sabor of the Diocese. That is not my opinion.

9954 That is law and Constitution says it has the right and it doesn't enumerate any exceptions.

9955 There is no article which states that the Council of Bishops has a right specifically to amend the Constitution of the American-Canadian Diocese.

9956 My first contact with Bishop Dionisije in the proceeding was when we arrived in Libertyville at his house.

Q. You had been appointed the investigator along with Bishop Hrizostom by the Synod, is that not correct?

A. Yes.

Q. Did you receive any oral direction from the Synod?

A. We received written directives.

Q. Did you receive any oral directives from the Synod?

A. In general there were discussions concerning the matter.

Q. Weren't you told to do what was necessary?

A. Yes.

Q. Did you receive any oral directions from the Holy Assembly of Bishops?

A. When we discussed this matter there was much discussion about it and there were various suggestions that were made.

9957 There was a meeting in 1963 in the month of May and in the month of July. I don't remember if there was one in June of 1963.

When we went there was no senior or junior person. Bishop Hrizostom was consecrated 16 days earlier than I was. The Bishop is alive and well but did not come to testify.

9958 This is the second time that I have come to Amer-
9959 ica to testify. I don't remember if I got any documents from Bishop Dionisije on July 5 of 1963.

9960 I don't remember Defendant's Exhibit 258-A as a copy of the document given to me by Bishop Dionisije on July 5, 1963. Plaintiff's Exhibit 197 is a copy of my report to the Synod. I do not remember if enclosure #3 is Bishop Dionisije's letter which is marked as Defendant's Exhibit 258-A. Defendant's
9961 Exhibit 258-A may be the documents given to me by Bishop Dionisije on July 5, 1963.

Bishop Hrizostom and I were the authors of the proclamation issued on July 6, 1963 known as Plaintiff's Exhibit 17-A.

9965 I don't think that I served on the Legislative Committee that made recommendations to the March, 1964 meeting of the Holy Assembly.

9967 I testified that a Bishop once defrocked cannot be restored to his rank as the Doctrine of the whole Orthodox Church and the Serbian Orthodox Church. I know of no Orthodox Bishop who has been defrocked and restored later.

9968 Deposed and defrocked do not mean the same thing in the Canons. To depose is a stern action. In Article 111 both terms are used. Deposed means prohibited from executing the duties.

9969 The word defrocked is used in the Canons of the Orthodox Church and it means to deprive one of his episcopal office or rank. I read about Patriarch Photius about 1054 A.D. but I don't remember the details. I don't recall that he was defrocked. I am familiar with the book "Church History" by Eufippius Popovich. It is not a recognized text studied and recognized by the Serbian Orthodox Church. I

did not attend Seminary. I studied at Belgrade University. I read his book. The book handed to the witness is the same book that he studied.

9971 The incident with Patriarch Photus did not occur in 1054. It occurred around the year 860. Only those who have studied the history of the Church can discuss it.

9976 (Offer of Proof)—A Bishop that is defrocked by the Council of Bishops is defrocked. His office may not be restored to him. A Bishop that was defrocked by a Council that was called by an Emperor or a Civil Authority is not properly defrocked, because
9979 the Council is not proper. (End of Offer of Prooff)

9981 St. John Hrizostom was the Arch-Bishop of Constantinople in the 4th Century who wrote the liturgy which is found today in the Holy Liturgy of the Orthodox Church.

9983 I am of the opinion that he was not defrocked and then restored to his position. He was relieved of the administrative duties as in Article 111 of the Constitution of the Serbian Orthodox Church.

9984 Defendant's Exhibit 258-A is offered and admitted without objection.

9985 *Redirect Examination.*

9986 The Holy Episcopal Synod of the Serbian Orthodox Church under Article 69.21 of the Serbian Orthodox Church Constitution amends that Constitution.

9987 This is the Holy Assembly of Bishops. The Holy Synod is the executive arm of the Holy Assembly of Bishops.

9988 The Holy Episcopal Council appointed the Synod to institute proceedings against Bishop Dionisije.

I testified that the decision of the Holy Assembly as to the defrockment of the Bishop, if unanimous, is final.

9989 The 14th and 15th Canon of the Antiochian Council speaks of this. It is a Canonical Rule that all Bishops must attend the meeting of the Holy Episcopal Council unless the Council has excused them and they have given their reasons for not attending. This is the 72nd Canon of the Carthaganian Council.

9991 I think the 12th Canon of the Carthaganian Council speaks about the minimum number of Bishops that must be present at a Sabor for the defrockment
9992 of a Bishop. There must be 12 Bishops present. By the Constitution of the Serbian Orthodox Church there must be an absolute majority of the Serbian Orthodox Bishops present.

9993 I remember testifying that Bishop Dionisije could not and did not participate in the meeting on March 5, 1964, pursuant to Canonical Regulations.

9994 I think this is Canon 107 of the Carthaganian Council.

(End of Examination Bishop Vasarion, Page 9995) Volume 35.

MILAN BRKICH testified as follows:

Direct Examination.

(Called Again)

10935 In the Spring of 1963 I was a parish priest in Mil-
10936 waukee, Wisconsin, and as such, a member of the Clergy Association of the American and Canadian Diocese. I attended a meeting of that association in Lorain, Ohio, on May 8, 1963. During that meeting I was elected as the presiding officer. A resolution was prepared which is marked PX 86A. Bishop

10937 Dionisije was present at these meetings on both days. A committee was designated to draft the resolution and Father Mijetovich of Detroit was appointed chairman of that resolution committee. After the resolution was discussed by the assembly, Bishop Dionisije signed it, as did I and the other members present. The only change made in the resolution was
10938 the insertion of the word "alleged" concerning the accusations against the Bishop; otherwise the resolution stood as it was drafted. I personally saw the Bishop sign it.

10999 MILAN RADAKOVICH testified as follows:

Direct Examination.

My name is Milan Radakovich and I reside in
11001 Milwaukee, Wisconsin. In 1940 I was treasurer of the American-Canadian Diocese. I had occasion to attend the diocesan meeting in the summer of that year. I received notice of that meeting by letter
11002 from Bishop Dionisije. The meeting was scheduled for July 12, 1940 and the notice arrived ten days previous to that. PX 220 which are the minutes of the July, 1940, diocesan Council meeting reflect my attendance at that meeting. There were about twelve other members present. The meeting began about
11004 11:00 in the morning at 1905 Schiller Street in Chicago in the church hall of Holy Resurrection Church.
11005 I arrived at the meeting before Bishop Dionisije who came about 15 minutes later. Father Firmilian was with him. After the Bishop arrived, he intro-
11006 duced Father Firmilian as the secretary for the meeting. There was no discussion at that meeting as to whether or not Bishop Dionisije would be accepted by that council board. At no time did the

11007 Bishop withdraw from the meeting hall so that the council could vote as to whether or not to accept him.

Cross Examination.

I had not met Bishop Dionisije prior to that meeting in July of 1940. I do not know whether he had met any of the other members of the diocesan council. I do not know the date of the meeting immediate-
11008 ly prior to or the meeting subsequent to the meeting on July 2, 1940. Similarly, I cannot tell you where either of these two meetings were held. Prior to testifying today I reviewed the minutes of the July 2nd meeting. I had however independent recollection of what took place. I have no recollection of what
11009 took place at the meetings of the diocesan council immediately preceding or immediately following the meeting of July 2nd. I cannot recall what occurred at any other council meetings. I have a clear recollection of exactly what happened at the July 2nd 1940 meeting without the benefit of reviewing the minutes of that meeting.

11010 ROBERT TOBIAS testified as follows:

Direct Examination.

My name is Robert Tobias and I reside at 5403 South Lake Shore Drive, Racine, Wisconsin. I am a professor of Ecumenical Theology at the Lutheran School of Theology in Chicago. I prepared and sub-
11011 mitted a dissertation at the time I received my doctorate degree entitled, "Communist-Christian En-
11012 counter in East Europe". This dissertation was published in book form. In 1946, I had just been
11024 called as assistant director of the division of the inter-church aide of the World Council of Churches.

My first assignment was to find out what was going on in communist occupied countries and how we could get various kinds of material assistance to the people of those countries through the churches.

11025 The first occasion of my visit to Yugoslavia was the winter of 1947-48. Between '47 and '64 I have made 30 or more trips to Yugoslavia. I have not traveled to Yugoslavia since 1964. The duration of my visits to Yugoslavia ranged from 3 or 4 days to six weeks. I believe the average would be somewhere between 2 and 3 weeks. My travels took me across the country and there is hardly an area which I have
11026 not visited. In my travels I have had an opportunity to meet the Patriarch German on an informal basis.
11027 I have been a guest in his private villa in Yugoslavia as well as an official guest at the Patriarchate
11029 Subsequent to 1953, I had occasion to work for the division of the inter-church aid. My assignment was with my own denomination, to oversee the spending of its support for churches abroad, and also, I continued on an advisory committee with the division of inter-church aid service to refugees. Therefore, I was traveling two or three times a year into Yugoslavia, Europe, the Middle East and North
11031 Africa. I have published a number of books. On the subject of Eastern Europe, I published Communist, Christian Encounter in East Europe, which is my only major publication of about 550 pages. I have also published numerous articles on the same subject. I have also published a book entitled "Reaches of Unity," another entitled "Breach of Unity," another on "Men, Medicine and Theology", and another manuscript which I have just sent off concerning the future of God and man. I have published at

least 100 articles. During my travels to Yugoslavia,
11033 I had occasion to meet all of the Bishops of that country and, perhaps, 100 to 150 of the clergy. In connection with my travels and in preparation for my books, I have studied the relationship between the church and the state in the Soviet Union and its Satellite Nations. I have also specifically studied the relationship between the church and state in Yugoslavia and the history of the Orthodox Church.
11034 Due to the lack of official documentation, my research primarily consisted of conversations, meetings and the use of private and unpublished documents. Insofar as possible, I have made a study of communism in Eastern Europe as it pertains to the
11035 practice of religion, and in particular in Yugoslavia.
11039 I was able to travel throughout Yugoslavia from 1946 to 1964 only subject to the restrictions of roads, highways, military operations and so forth of the Yugoslavian government. It was my purpose to
11040 discover what the needs of the people of the land were and the needs of the churches. My opinion as
11051 to the effect of the government on the churches is that the churches live under the rule of the government which controls the legal offices of the country: the postal system, the rail system, social security, etc. In those regards, obviously, the church is going to exist within the country and use those facilities. It must do so according to the established regulations which is true in any country. After 1947 the government was in a quite precarious position as some of the clergy had supported the royalist faction, others had collaborated with the Nazi's, and still others were partisans allied to the communist movement which had taken over the government.

11053 In 1947, to avoid partition by England and the Soviet Union, Tito's regime made its break with the Kremlin and this placed still greater difficulty and strains upon the government to insure that would-be subversives would be eliminated from leadership within the country. The government made it its business to find out who among the individuals in the life of the church were going to be involved in subversive groups organized to overthrow the government. The church had always been a powerful force in Yugoslavia and particularly in Serbia. The government made it its business to find out where the leadership of the church stood and, in essence, told the church to keep out the politics.
11054 This does not mean, however, the government was controlling the integrity of the church in terms of the spiritual life or the theology as long as the church would maintain itself as a church willing to work under the laws of the land as established. To that extent the church was free to work. My reference to the church concerned all the churches in Yugoslavia which were in the same situation. Sev-
11055 eral distinctions can be made between the relationship between government and church in the Soviet Union and government and church in Yugoslavia.
11056 In the Soviet Union the official policy established by Lenin as against Engels was that religion was to suppressed. Engels had taken the position that when economic conditions were sufficiently improved religion would simply die out. Lenin's position, however, was that religion must be done away with administratively. That was the policy of Russia right on into the 30's. Tito himself had had some training in Russia and apparently may have learned a lesson

from that experience. He took the position, and it was subsequently applied as a policy, as he put it in a speech in Mostar, that religion is a private affair of the individual and cannot be destroyed administratively. He maintained therefore that the individual must have the right to organize and to practice his religion as he saw fit as long as it was within the keeping of the rules or laws of the country.

11057 During my 30 or more visits from 1947 to 1964, I had occasion to work with the Red Cross in Yugoslavia. The Red Cross Staff helped us pick out what the material and medical needs of the people of Yugoslavia were and at the same time they were sending assistance to the churches for their programs. While I was there, I had occasion to attend church services in Church edifices. Attendance varied somewhat, but in general, the services were well attended.

11058 In some villages I found even large attendance, as though these were very popular. I suppose that in some places this was the place where they could express themselves not only religiously but in other ways. I also attended some major celebrations which, of course, would naturally be well attended. On the whole it was my impression that a very healthy solemn, faithful religious life was being conducted. In 1947 everyone in Yugoslavia was under a great deal of tension and this was noticeable in the religious expression of the day. In '64 the situation

11059 was much more calm. Religious life was open and free in 1964. Concerning changes of governmental policy toward the church life from 1947 until 1964, I would answer the question in two parts. In principal, I see no fundamental differences in position on

the part of the government which, as a matter of fact, was stated by the secretary of the communist party at an official meeting of that party when he was asked whether it wasn't necessary for them to change their position with respect to religion. His

11060 reply was "No, we have a correct position; we have not created martyrs nor have we given to churches liberties which our other institutions do not have. Therefore, our position should stay as it is." On the other hand, it has to be recognized that when the communist leadership came into power in 1944 and 1945 and through '47 and '48, they were very undermanned both in party and government. They had the necessity of staffing not only the government and army but their relief forces, educational institutions, consuls and commerce offices, embassies and United Nations offices. As a consequence, there were many local situations in which untrained communist or government leaders were dealing with churchmen and not used to dealing, first of all, with the tenseness of the situation, nor idealogically, were they prepared to help move their country smoothly

11061 to what the communist government regarded as an ideal society. As a result there was a great deal of crudity, particularly at some local levels, which I don't question, the leaders did not like. I think it must therefore be seen and recognized that there were some instances of brutality due to simple incompetency on the part of the government on how to deal with the leadership of some of the local churches.

11062 The situation over the years between 1947 and into the early 1960's has manifestly improved. For that reason, the tenseness which I described earlier

with regard to the leadership of the church has been eased. There has been time for the church to settle and to find out where it stands in the country and how it may function smoothly. Materially, it is much better off. The number of churches that have been rebuilt is somewhere around four-hundred as I recall. A number of new churches have been built and the clergy have homes and adequate substances. They are now on social security and, while I rather expect that the condition of each individual clergyman may not have improved, in general, the picture has very much improved.

11064 (Offer Of Proof.) At one time in Bulgaria I was convicted of being an American spy and found to be persona non grata. (End Of The Offer Of Proof.)

11173 ROBERT TOBIAS testified as follows:

Direct Examination Continued.

11175 When I was working in Europe, I was headquartered in Geneva, Switzerland, and the director of the World Council of Churches during that period was Dr. W. A. Visser-t Hoost.

11176 The average size of the staff was about 100 and at any one time the largest number of people in Yugoslavia was about 30.

Cross Examination.

11179 I should say concerning my 30 trips that most of them were made prior to 1959 and fewer between 1959 and 1964. On all of these trips I entered Yugoslavia in one capacity or another as a representative of the department of inter-church aid and service to the refugees of the world Council of Churches.

11181 At the Yalta Conference it was agreed by the allies, including the Soviet Union, Britain and America, that they would work with the partisans toward the liberation of the country. The partisans, of course, were headed by Marshall Tito. So at that conference the decision was made not to support the kingdom of Yugoslavia headed by King Peter which was in exile in London, and, in fact, there would be no effort to restore the monarchy. While
11187 it is a generalization, I believe it can often be said that the history of communism has been that, as they take over the government with rather inferior forces numbers wise, the governments are rather shakey in the early stages.

11188 When Tito's government took over, they weren't sure just where the church heirarchy stood with reference to whether they were sympathetic to his group, that is the partisans, or the Nedich group who were the former Nazi Collaborators, or the Mihailovich Group, which were the royalists loyal to King Peter. This was a natural uncertainty and particularly in view of the fact that the Patriarch's office prior to Patriarch Gavrilo had worked with the Nazi forces.

11189 When Tito's government first came in, they separated the church from the state. At the time I started to go into Yugoslavia in 1946, I was aware that there were some priests and Bishops who were in jail or prison pending trial.

11191 I had occasion to meet only two of the Bishops who were during this period in jail. One of them was the Metropolitan of Montanegro by the name of Arsenius and the other was the former Locumtenens Joseph. While the Patriarch was in Dachau.

he acted as Patriarch. He was an outspoken critic and opponent of the communist government and the Partisans represented by Marshall Tito. When the time came for the election to replace Gavrello, Metropolitan Joseph was in house arrest at the monastery at the south side of Belgrade.

DX 278 refreshes my memory to the fact that Metropolitan Arsenius, at the age of 71 years of age, was arrested in July of 1954. Shortly after his arrest in July of '54, he was tried by the communist government and was sentenced to 11 years and six months of hard labor. I had met him prior to that in connection with the work of the Holy Synod. At the time of his arrest and conviction, he was vice-president of the Holy Synod. Concerning the circumstances and reasons for his arrest, I recall that it was generally known that he had been involved with some Monarchists who were concerned with the restoration of the Monarchy in Yugoslavia. He had been working with some people in attempting to achieve that end. This would be in opposition to the government of Marshall Tito as the Monarchy could be restored only by putting out the government in power.

Without checking my records, I have no recollection in the period between 1946 and Patriarch German's election in 1958 of any other Bishops who were arrested or placed under house arrest, or placed in prison by the communist government. I had the opportunity to meet Bishop Irinej of Bachka. I knew that sometime during this period of time he was supposedly beaten so badly that he went out of his mind and was never able to serve after this beating. I visited him after this so called beating

and have spoken with him. He was a very elderly man and whether the senility which came was due to old age or due to the beating of some rough hands was a medical decision. I had a chance to come in contact with Metropolitan Nektarije, but do not recall that he was beaten in 1953. As I have indicated previously, there were situations in which local groups let things get out of hand and became crude in their dealings, not only with religious leaders, but with others as well. I am not necessarily referring to the local party officials of the communist party, although in some cases members may have been involved. To my knowledge, a priest did not have to be a member of the newly organized priest association to receive social security. The new priests association did receive financial support from the government as did the church and the Red Cross and many institutions concerned with the welfare of the people.

The first president of the Priests-association was Prota Vidakovich who was a Partisan. He held an office in Tito's government under the title of President of the Presidum of the Presidents of the Republic. He was one time the President of the Republic of Serbia or the Vice-President. He was also minister of agriculture in the Republic of Serbia at one time. He was not a member of the party, but was part of the government and held offices as high minister in that government as well as being president of the Priests Association.

The policies and the programs of a communist country are determined through the party. Disagreement with the party often is treated severely, as in the case of Mr. Djilas, who himself was a very

high officer in the communist party, but took exception to some of its developments. Eventually, he was put under house arrest because of his disagreement. The form of this disagreement and the implications of it were such that it was a real threat to the basic policies determined by the party. He wouldn't shut up so they put him under house arrest.

11211 Prior to 1947, Yugoslavia was under the leadership of the communist party which had close ties to the Kremlin. The Soviet Union was, in fact, directing much of its economic development. The interpretation within the government of Yugoslavia was that they were being economically disabled and it was going to be necessary either to become completely a satellite or else to make a completely clean break
11212 with the Soviet Union. The decision was finally made that the break was necessary. A fourth pressure group in the country then was the Pro-Stalin group. The emergence of this group resulted in a new uncertainty and fear on the part of the government concerning its strength in relation to the whole populous.

11213 Now the government was not sure whether any priests were involved in this new group created by the schism with the Soviet Union. I am not aware of any program which was launched by the government at the church, as such, concerning these four groups. The government's position was simply to try to know where there was a threat of subversive activity from any of these three or four positions, and simply to prevent that from coming to a head and undermining the government to the point of its falling.

11214 There were some groups who were allowed continued freedom because the government did not consider them a threat. What the government was seeking,

of course, was insurance that the administration and hierarchy of the church would not use it to overthrow the government. In its agrarian reform, the government took over most, but not quite all, of the lands of the church as part of the program of economic development. The productivity of the nation was organized as one total productive economy and the church lands were to be included.

11215 Concerning takeovers of churches, you have to remember that about 1,000 churches were actually destroyed during the war and there were a few instances where churches or chapels were of general interest to the whole populous as national shrines and the government took over the upkeep and the support of those shrines. These have been run as government museums rather than the property of the church.

11216 After the war, the lay population had not developed the practice, which we have here, of supporting their own priests. Therefore, there was a period of time when the new government provided subsidies to help the church get on its own feet. There was
11218 not a tangible agreement between the church and the state that in exchange for the churches abstention from politics, the state would provide subsidies. It is reasonable to assume that a government will not provide subsidies for its own overthrow, and I think that's also true in this case.

11219 Concerning the cases of Metropolitan Arsenius and Metropolitan Joseph and Bishop Varnava, it
11220 is my opinion that these men were prosecuted, not at all because of their religious activities, but because of their involvement in certain political activities.

11226 Concerning statements released by Bishop Dionisije, I have several opinions as to whether or not this

would precipitate any action by the government through the Serbian Orthodox Hierarchy in Yugoslavia.

11228 My opinion is that in view of the fact that this document begins with some facts but develops them to a great extent inaccurately, the government would be concerned to have the facts made known to discredit the tendentious conclusions made here. The
11229 second half of my answer is that I doubt that they would try to do that with any kind of formal pressure on the church. I am not aware that Marshall Tito denounced Bishop Dionisije personally nor that Patriarch Vikentije and Patriarch German attempted to bring pressure to bear on Bishop Dionisije not to mix into the political situation in Yugoslavia. However, I would not find it surprising.

11233 The government makes the decision as to whether or not political activity carried on by the church is impermissible and tends to undermine the government.

11236 I characterized Bishop Dionisije's press release of August 6, 1964, as tendentious because the document begins with certain events and facts which could be established in history and develops from that by inuendo, a number of conclusions that are not really substantiated. I have not read nor am I
11239 familiar with the book entitled "Yugoslavia and the New Communism" by Hawkman and Neil.
11242 This book contains the following statement: "Importance is attached to the clerical association because they enable the government to get its ideas across to the clergy and indicate a degree of acceptance of the regime on the part of the churches. Priests benefit through social insurance only if they

are members of the clerical association. The Orthodox Church and the Supreme Vacuf Assembly, the ruling body of the Moslem community, permit their clergy to join similar associations." In the first
11245 sentence the statement, "Importance is attached" I presume that importance is attached by the authors of that book. I cannot quarrel with their reasoning, however, I would attach importance for different reasons than they do. On the second sentence in which they allege that benefits are available to the Orthodox clergy or to the clergy only if they belong to the association, this is not true to my understanding. There are priests who are not members of the clergy who have social security by virtue of being citizens of the country. Concerning the third sentence that Moslem and the Orthodox permit the clergy to become members of such organizations, insofar as the church is not prohibited their clergy from becoming members, I take it that means that they may become members. Without qualification I cannot agree completely to this further statement, "While the regime does not directly interfere with internal administration in any of these churches, it does not hesitate to do so indirectly when political considerations are involved. A good example is the manner in which the Holy Synod of the Serbian
11246 Orthodox Church was pressured into accepting Macedonian demands for an autocephalous church in that republic in 1958."

11250 There is a footnote to this statement, "Macedonian Bishops were elected along with the Metropolitan of their choosing, although nominally the church continued as part of the Serbian Church under the Serbian Patriarch. The ancient See of Ochrid was reactivated as the archbishopric of Skoplje and

Ochrid." Concerning these two statements Macedonia reaches into three countries; Bulgaria, Greece and Yugoslavia and is of political interest to all three who try to control the Macedonians. Perhaps the largest part of Macedonia is in Yugoslavia, in terms of numbers of people, and geographic area, fertility of soil and production. This is a point where national and ecclesiastical interests have come into conflict within Yugoslavia.

11251 It is to the interest of the Nation that the Macedonians should, if possible, find their full freedom and self expression within the republics or as a republic of Yugoslavia. On the other hand, ecclesiastically, the Macedonians are a part of three autocephalous churches, Greek, Bulgarian and Serbian, and it is against cannonical order for the Serbian Church to authorize the creation of an autocephalous church in one part of Macedonia. The Holy Assembly has therefore refused to grant that autocephalad which is where that statement is wrong. It has, however, granted autonomony which allows the parishes within the diocese within Macedonia under a Metropolitan or Arch-Bishop to function with a large measure of independence. The church at this point has maintained its canonical integrity, but has been in conflict at that point with the national interests of the government, and it is a point of conflict which I presume is still in negotiation and will continue to be so for years to come. It is one of the instances of a conflict of ecclesiastical and national interest. By
11252 national interests, I mean that of the government.

11253 Autonomy is what was granted which provides a large measure of self-government and independence. Autocephaly would mean that they had their own

patriarch and it is not the right of the Serbian Patriarch or Holy Assembly to grant this.

11254 I disagree with the statement that the communist regime, in order to exercise full control over the activities of the church, created the Commission for Religious Affairs and Priests Association through which the regime is kept informed of all developments and events which occur in a church.

11255 I would disagree with the statement, "In communist Yugoslavia the state is free from any church influence, but the church is not free from priests as-
11256 sociations both on the federal and republican (state)
11258 level." I would agree that when a priest is involved in activites subversive to the government and the government persecutes him and puts him in prison and penalizes him in other ways, this could be described as the infliction of suffering, both mental and physical, upon Serbian Orthodox priests. I would
11259 not agree that this is meted out as part of a conquest or an infiltration of the church. I disagree
11260 with the state that 90% of the clergy were persecuted by the regime.

11263 At the time Patriarch German was elected, to my knowledge, the party or the government neither supported or opposed his election. The Yugoslavian Red Cross, for whom I worked, is part of the International Red Cross and is under the control of the government while not quite an official agency. It has a kind of private sponsorship and some form of Board of Directors.

11265 *Redirect Examination.*

In my book "Communist-Christian Encounter in the East" there is no chapter on Yugoslavia. That book deals with my research work and relationships

in satellite countries of the Soviet Union and the Soviet Union. The Yugoslavia situation is very different from those. It is therefore excluded from that book and I delt with it in other documentation.

11266 The Serbian Orthodox Church and the World Council of Churches are associated in several levels. Patriarch German is one of the presidents of the World Council of Churches. Serbian church members participate in various commissions of the World Council. It is now fully a member of the World Council. The Serbian Church did not send delegates to the 1954 meeting for World Council because it was not, at the time, a member. Concerning the

11270 churches which were taken over by the government and used as shrines, I believe they numbered between 8 and 10. All of these shrines are still used as churches, so far as I know, with one exception.

11336 FIRMILIAN OCOKOLJICH testified as follows:

Direct Examination in Rebuttal.

I came to this country in 1940 with Bishop Dionisije and was invited by the Bishop to help in the Diocese as secretary. I recall the first diocesan council meeting attended by Bishop Dionisije and I accom-

11337 panied him as secretary of the diocese there. The meeting was held in Chicago at 1905 West Schiller Street in the Holy Resurrection Church. I recall

11338 taking minutes during that meeting in the Serbian language directly into the book. At the end of the

11339 meeting I signed my name as did Bishop Dionisije. It was at my direction that the minutes from my original handwriting, PX 220 were translated but I do not recall if I did it myself. I compared the translation with the original and it is a true and

11340 correct translation of the original minutes. I recall what occurred when we arrived at the meeting. At that time the diocesan office and Bishop's residence was in Chicago on Dearborn Street and I believe we took a taxi and came to 1905 West Schiller arriving there at about 10 o'clock and the members who are registered here in the minutes were already present. We introduced each other, and then after ten or fifteen minutes of talking, Bishop Dionisije opened the meeting and I took my place next to him to take notes. I recall that Voadimir Lugonja, a witness who appeared here was at that meeting. He

11341 was there prior to the opening of the meeting as was Milan Radakovich. I met Mr. Lugonja in New York when he was helping us because none of us spoke English in those days. There was no discussion prior to the opening of this first meeting of the diocesan council attended by Bishop Dionisije pertaining to the acceptance of the Bishop by that board. There was no vote taken by any of the members of that diocesan council as to whether or not they would accept Bishop Dionisije. I recall being

11342 in attendance at the clergy association meeting of May 8 and 9, in Lorain, Ohio. I was a member of the clergy association at that time holding the rank of Archimandrite and parish priest in Pittsburg. A resolution was drafted at that meeting which is PX 86. Bishop Dionisije was present during those two days. My name appears on page three

11343 of this document in the right hand column, third from the bottom. I saw Bishop Dionisije sign this document in its present form after it had been completed and adopted. His name appears on top of the right hand column.

Cross Examination.

11344 This meeting was the first diocesan council meeting after our arrival from Yugoslavia. At that meeting Bishop Dionisije did not present his credentials to the council or his decree appointing him as Bishop of the American-Canadian Diocese from King Peter's regent. Some of the gentlemen who attended
11345 that meeting traveled quite a distance to get there and some of those men did not have an opporunity to meet any of the people who had come from Yugoslavia before that meeting in July of 1940. Mr.
11346 Lugonja had been in New York to assist us through
11348 customs. I had met a few of the other members also.

IRINEJ KOVACEVICH called as a witness in rebuttal on behalf of the Defendant.

Direct Examination.

My name is Bishop Irinej and I have testified
11481 previously in this case. I have before me and have examined PX #16 being the indictment in this case. I speak and write the Serbian language and the English language. At Mr. Holmquist's request I took PX 16A, being the Serbian of the indictment, and PX #16 being the English translation and examined the two documents for the purpose of checking the accuracy of the English translation from the Ser-
11491 bian. I have had an opportunity to review PX #16 and PX #16A and it is my opinion that the English translation of 16A is a substantially correct literal translation. What I mean by this is that the English sentences the construction of the English sentences are really exactly as the Serbian sentences were constructed and simply translated as it happened to be in Serbian. It does not sound as the best English as it stands, but the meaning is there. It is a
11492 complete literal translation word for word. In the
11495 course of going through the document, I found incidents where names of persons were omitted but not incidents of incorrect references to different people. I found four incidents in total where this
11497 had occurred. In the cases where names were omitted I found that it did not alter the meaning of an entire paragraph. However, I found in one that something was said by Glisho Rapaich to Jovan Duetchich and the paragraph had the speaker and the listener reversed. (End of the offer of proof.)

BISHOP DIONISIJE testified as follows:

Direct Examination.

11499 I was in Court when the Evidence Deposition of Reverend Petakovich was read. I recall that there was a meeting of the Diocesan Executive Board in Chicago on or about April 19, 1962. Reverend Petakovich was a substitute or alternate member. There
11500 was a discussion at that time about my going to
11501 Belgrade. DX 289a and 289, the English translation,
11506 are the minutes of that meeting. At the time of the discussion concerning my going to Belgrade, Father Petakovich was not there. There was a resolution passed concerning whether I should go. The board
11507 resolved that I should not go. Father Petakovich did not participate in that conversation or resolution because he was not present. He came to the
11508 meeting later. (DX 289 and 289a are admitted)
11509 After I got word that the Damaskin Delegation was coming, I prepared a notice recommending that we receive them nicely and brotherly. DX 288a and
11510 288, the English translation, is the document which

I prepared and sent out on or about August 18, 1962.
11511 In August, 1962, in San Francisco, I did not have a conversation with Father Petakovich in which I advised him not to invite the Damaskin Delegation to Gary, Indiana. I did not have any conversation with him in San Francisco or any other place. His
11512 Church Congregation Committee made arrangements for the delegation to come to Gary on November 26,
11514 1962. (DX 288 and 288a are admitted in evidence.)
11515 The Damaskin Delegation was in Gary on November 25. I don't recall whether Father Petakovich brought Metropolitan Damaskin and Bishop Nikanor to the Monastery after their visit to Gary. I did
11516 not make any statement to Metropolitan Damaskin that I would separate this diocese from the Mother Church if they tried to have charges againts me.
11517 (DX 218b is received in evidence.)
11518 I recall the testimony of Father Trbuhovich concerning a priest by the name of Petakovich in Pittsburg. Father Petakovich wrote me a letter that he would be married, and DX 266a dated July 27, 1942, is that letter. The signature is that of Nicholai
11519 Petakovics. DX 266 is a true and correct English translation. After I got that letter I responded and DX 268a dated August 1, 1942, is my letter to him. I said that I would suspend him from duty if
11520 I heard about it. After August 1, 1942, a priest made an accusation that he had been married and sent a marriage license to me. DX 267a is a certified copy
11521 of the marriage certificate showing that he married Zora Strain on or about August 14, 1942. I placed this priest on forbidance. DX 269a and 269 the
11522 translation, is a true and correct copy of my decision suspending him. DX 270a is the letter addressed

11523 to the Church Congregation notifying them of the
11524 suspension. DX 270 is the English translation. Certain persons and organizations intervened on behalf of this priest. I obtained knowledge of this
11533 priest's marriage a month after he had gotten mar-
11534 ried. DX 271a is the letter which I received from the Serbian National Federation dated March 26,
11535 1943. DX 271 is the English translation. DX 272a is a letter from Dusan Silaski. I recall the testi-
11549 mony of Momchilo Djuich. I did not have a conversation with him from the year 1952 to the present time concerning Reverend Kresojevich. During the
11550 years of 1962 and 1963 I made visits to Shadeland. I had two priests over there, Paul Poznanov and
11551 Simeon Grozdanovich. These priests resided at
11552 Shadeland during 1962 and 1963. The two priests
11556 maintained the receipt books and received the money, issuing the receipts. I do not think these two priests bear allegiance to me at this time. One is in St.
11557 Louis and the other one is in Cleveland. Bishop
11559 Firmilian knows. DX 259a is a letter addressed to Father Djurich at St. Paul on July 2, 1958. DX
11561 259 is a correct English translation. DX 260 is a letter dated June 26, 1958 from me to the board of the church in St. Paul. DX 260 is a true and correct English translation.

11567 Before I came to the United States in 1940 I was not a member of the Association of University Educated Theologians. I have not been a member of that organization, assuming there is such an organization, since I came to the United States. I have never been a member of an organization purporting to be the Association of Universtiy Educated Theologians in the United States. The book known as the

"Rudder" is a composition of the Holy Canons beginning with the apostle times to the Ninth Century, including the Seven Ecumenical Councils and the Local Councils and decisions of the Holy Fathers. In the book there is an interpretation given following the Canon. Interpretations were made in the Eleventh, Twelfth, and Thirteenth Century by several famous interpreters. Later they were recognized as the authentic interpreters of the Holy Canons. The three interpreters are [illegible]ara, Valsamon, and Iristinus. This book was published under the authority of the Patriarch of Constantinople in 1800. The Serbian Orthodox Church has never published any interpretations of the Canons. The Serbian Orthodox Church accepts the interpretation of the Canons as set forth in the "Rudder."

I recall testifying that a Metropolitan Paul of the Serbian Orthodox Church had been defrocked. DX 290a is an excerpt from a book entitled "Peoples Encyclopedia of Serbs, Croats and Slovenes" and I am familiar with it. It is a recognized encyclopedia printed in 1928 by the famous professor of history, Stanojevich. I brought this particular encyclopedia in 1940. I was familiar with it while I was in Yugoslavia prior to 1940. This encyclopedia was in use in Yugoslavia at that time. This particular encyclopedia was kept in the library of the Theological University in Belgrade. It is a recognized authority as to the history of the Slavs, Croats and Serbs. This professor of history was entrusted by the Holy Bishop's Assembly to write the life of St. Sava in 1935. When I attended the Theological Faculty this man was a professor of history at the University of Belgrade. DX 290 is a correct English translation

of this section wherein there is a reference made to Metropolitan Paul. DX 291a is another excerpt from the same encyclopedia and it refers to Metropolitan Michael. DX 291 is a true and correct English translation.

DX 292a is an excerpt from the text entitled "Serbian Literary Organization Circles, Lives of Serbian Kings and Archibishops". This was published in 1935. The author is Archbishop Danilo II, who lived at the end of the 13th Century. Up until the time that I left Belgrade in 1940 it was a recognized authority on its subject matter. It was used as a historical text when I was a student at the Theological Seminary. I have the original book here. DX 292 is a true and correct English translation of page 208, dealing with Archibishop Danilo I.

DX 293 is an excerpt from the Encyclopedia Brittanica, Volume V, page 666 dealing with St. John Chrysostom. This is the same St. John Chrysostom that I made reference to in my previous testimony. (The Court states that he would take judicial knowledge of this work) DX 294 is another excerpt from the Encyclopedia Brittanica dealing with Athanasius. (The Court states that it is refusing to accept the documents as exhibits and suggests that if they are desired to be used by counsel for the defense, that they be used as reference points in briefs and argument.)

Cross Examination.

Danilo I, which is in the book as a bishop and the book shows that he was deprived of duty and defrocked.

The "Rudder" has never been translated into the Serbian language. Bishop Milash's work is a private work never recognized by our church. It is in the Serbian language. I did not have full personal control of the Shadeland properties in February of 1962. I never saw PX 269a, a copy of "Christian Thought" a periodical published by the Association of Theologians in Yugoslavia congratulating me on my election as Vicar Bishop, before today. (DX 257 received in evidence.)

OWEN C. NEFF testified as follows:

Direct Examination.

My name is Owen C. Neff and I reside at 175 Sterncrest Road, Morland Hills, Ohio. I am an attorney at law and am admitted to practice before the Supreme Court of Ohio. I was graduated from Ohio Wesleyan University and received my law degree from the University of Michigan Law School. I currently am a member of the firm of Sneider, Neff and Chamberlin. I am an active member of the Cleveland Bar Association and held a number of different positions. In 1952, I was practicing law in Cleveland, Ohio and was an associate counsel of records of Plaintiff in the case of the Romanian Orthodox Missionary Episcopate of America vs. Ione Trutza et al. No. 27-916. The actual Plaintiff in this case was Bishop Andre Moldezan. The case was appealed to the United States Court of Appeals for the Sixth Circuit in Cincinnati. I was the counsel of record and participated in writing the brief and was present during the argument. I had occasion to purchase a trial transcript from one Arne Jarvela.

This transcript is marked Plaintiff's Exhibit 217D and I recognize it. I first saw this document on October 17, 1952, when Mr. Jarvela delivered it to me in exchange for a check in the amount of $342.00 made out to Mr. John Vintilla. At that time, Mr. Jarvela stamped the bill as paid placed the date on it, signed his name with his initials and gave the receipt to me. I was present during all sessions of the Trutza case. I was present when the Right Rev. Dionisije Milivojevich testified. I recognize this gentleman in the court room; it is Bishop Dionisije. I have seen Plaintiff's Exhibit 217E before. It is an office copy of the record of the transcript of testimony which was filed in the United States Court of Appeals for the Sixth Circuit. I have compared pages 110 through 126 of Plaintiff's Exhibit 21E with Plaintiff's Exhibit 217 and they are the same. I cannot of course recall independently all of the testimony which Bishop Dionisije gave but this testimony which is reflected in Plaintiff's Exhibit 217E and the Plaintiff's Exhibit 217 is, substantially and in essence, the testimony which he was called upon to give and which he did give. It was our side of the case which called the Right Rev. Dionisije Milivojevich to testify as an expert witness.

Cross Examination.

The trial lasted five to seven days. We did not win this case.